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Attorneys and Counselors at Law

KAROLINA OBRYCKA V. CITY OF CHICAGO, ET AL.

**Exhibit II**

(Joseph Stehlik Deposition Transcript)

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION	
KAROLINA OBRYCKA, MARTIN ) KOLODZIEJ, and EVA CEPIASZUK, ) Plaintiffs, ) -vs- ) No. 07 C 2372 ) CITY OF CHICAGO, a Municipal ) Corporation, ANTHONY ABBATE, ) JR., GARY ORTIZ, PATTI ) CHIRIBOGA, and JOHN DOE, ) Defendants. )	1                           INDEX 2 3                           WITNESS                           EXAMINATION 4                           JOSEPH STEHLIK 5                           By Mr. Provenzale         4, 115 6                           By Ms. Rubens             113 7                           By Mr. Malatesta         114, 116 8 9 10 11                          EXHIBITS 12 13                          NUMBER                       MARKED FOR ID 14 15                          Deposition Exhibit No. 1     80 16 17 18 19 20 21 22 23 24
The deposition of JOSEPH STEHLIK, called for examination pursuant to notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Selena Fiore, a notary public within and for the County of Cook and State of Illinois, at 219 South Dearborn Street, 12th Floor, Chicago, Illinois, on the 13th day of August, 2008, at the hour of 1:21 o'clock p.m.	
Reported by: Selena Fiore, C.S.R. License No. 084-001986	

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1 APPEARANCES: 2 3 EKL WILLIAMS, PLLC, 4 MR. PATRICK L. PROVENZALE, 5 901 Warrenville Road, Suite 175, 6 Lisle, Illinois, 60532, 7 representing Plaintiffs;  8 CITY OF CHICAGO, 9 MS. BARRETT ELIZABETH RUBENS and 10 MR. JAMES T. McGOVERN, 11 30 North LaSalle Street, Suite 1720, 12 Chicago, Illinois, 60602, 13 representing Defendant City of Chicago;  14 NIELSEN, ZEH & ANTAS, PC, 15 MR. MICHAEL J. MALATESTA, 16 55 West Monroe Street, Suite 1800, 17 Chicago, Illinois, 60603, 18 representing Defendant Anthony Abbate, Jr.	1                           MR. PROVENZALE: You can swear him in. 2                           (Witness sworn.) 3                           JOSEPH STEHLIK, 4                           called as a witness herein, having been first duly 5                           sworn was examined and testified as follows: 6                          EXAMINATION 7                          BY MR. PROVENZALE: 8                          Q. Good afternoon, Sergeant. 9                          If you could just please state your full 10                         name for the record and spell your last name. 11                          A. It's Joseph Stehluk, S-t-e-h-l-i-k. 12                          Q. Are you a sergeant with the Chicago Police 13                         Department? 14                          A. Yes. 15                          Q. How long have you been employed with the 16                         Chicago Police Department as a sworn police officer? 17                          A. I'm in my 24th year. 18                          Q. And did you become a probationary officer 19                         with the Chicago Police Department while you were in 20                         the police academy? 21                          A. Yes. 22                          Q. And then you went directly from graduation 23                         to the police academy and the completion of your 24                         probationary period to an assignment as a patrol

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<p>1      officer?</p> <p>2      A. That's correct.</p> <p>3      Q. Where was that first assignment at?</p> <p>4      A. The 21st police district.</p> <p>5      Q. Do you know what the geographic boundaries 6      of the 21st District were back then?</p> <p>7      A. Back then it was probably 16th Street to -- 8      it jogged around and went all the way out to Hyde 9      Park which is like 60th and the lakefront.</p> <p>10     Q. Okay. And what was the western border?</p> <p>11     A. The western border, some of it was Cottage 12    Grove and all the way to like the expressway, the 13    borderline of the Dan Ryan Expressway.</p> <p>14     If you went down 31st to the Dan Ryan that 15    ran along that that was our boarder. That bordered 16    the 9th District.</p> <p>17     Q. How long a period of time were you assigned 18    as a patrol officer in the 21st District?</p> <p>19     A. I left there in December of '87.</p> <p>20     Q. That was about 14 years, 13, 14 years?</p> <p>21     A. No, two and a half years, December of '87.</p> <p>22     Q. And then what was your next assignment?</p> <p>23     A. I was assigned to the gang crime south 24    investigation unit.</p>	<p>1      November of 2004, 14 years.</p> <p>2      Q. So that was approximately '92 to '04, 3      something like that?</p> <p>4      A. Area 1 was from '92 until '04, November of 5      '04 or October of '04.</p> <p>6      Q. So you said October of '04?</p> <p>7      A. I entered the academy in October '04, and I 8      graduated November 1st of '04 as a sergeant.</p> <p>9      Q. What was your first assignment as a 10     sergeant?</p> <p>11     A. 7th District Englewood on midnights.</p> <p>12     Q. Were you a street sergeant or a --</p> <p>13     A. Yes, street sergeant.</p> <p>14     Q. Did you ever in any capacity in the 7th 15    District function as a desk sergeant?</p> <p>16     A. No.</p> <p>17     Q. You were on midnights for how long?</p> <p>18     A. Six months.</p> <p>19     Q. And then what?</p> <p>20     A. I was transferred to the internal affairs 21    division.</p> <p>22     Q. So from November '04 to approximately May 23    of '05 you were in the 7th District midnights as a 24    street sergeant?</p>
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<p>1      Q. Was that an area assignment?</p> <p>2      A. Out of Area 1. It was an assignment out of 3      Area 1. It covered Area 1 and Area 2.</p> <p>4      Q. Is that plain clothes?</p> <p>5      A. Both plain clothes and uniform.</p> <p>6      Q. Did you still hold the rank of patrolman in 7      that assignment?</p> <p>8      A. Yes.</p> <p>9      Q. And how long were in that assignment?</p> <p>10     A. Until July of 1990.</p> <p>11     Q. And then where did you go at that point?</p> <p>12     A. I was promoted to detective.</p> <p>13     Q. What area?</p> <p>14     A. Area 3 up until it closed in 1992.</p> <p>15     Q. So from July of '90 --</p> <p>16     A. Well, August of 1990 until I believe 17    October of '92 when they closed down Area 3.</p> <p>18     Q. Okay. And then what happened?</p> <p>19     A. I was reassigned to Area 1.</p> <p>20     Q. Okay.</p> <p>21     A. All within the homicide unit.</p> <p>22     Q. And for how long a period of time was that 23    assignment in Area 1 detectives?</p> <p>24     A. Until I was promoted to sergeant in</p>	<p>1      A. Correct.</p> <p>2      Q. And then you moved into IAD after that?</p> <p>3      A. Correct.</p> <p>4      Q. Then you've been in IAD from May of '05 5      approximately until the current time?</p> <p>6      A. That's correct.</p> <p>7      Q. When you were in Area 1 detectives up until 8      October -- approximately October of 2004, were you 9      assigned there at the same time that Detective or 10     Sergeant Skala was assigned there?</p> <p>11     A. Sergeant Skala was never signed to Area 1, 12    no.</p> <p>13     Q. Do you know what area he --</p> <p>14     A. No, I don't.</p> <p>15     Q. I understand that Sergeant Bigg is another 16     IAD sergeant currently assigned or was at least in 17    February/March of 2007; is that correct?</p> <p>18     A. As far as I can remember, yes.</p> <p>19     Q. Had you ever had any assignments with -- 20    any area detective assignments with Sergeant Bigg 21    prior to working alongside with him?</p> <p>22     A. No.</p> <p>23     Q. In IAD, right?</p> <p>24     So nothing prior to your working with him?</p>

<p style="text-align: center;">Page 9</p> <p>1 A. I never met the man before.      2 Q. Do you know any of the -- do you know      3 Anthony Abbate?      4 A. Not at all.      5 Q. Did you know him prior to February/March of      6 2007?      7 A. No.      8 Q. Did you know any of his family members who      9 were Chicago Police officers?      10 A. No.      11 Q. Did you know of a detective by the name of      12 Carmen Abbate --      13 A. No.      14 Q. -- while you were working in Area 1?      15 A. No.      16 Q. And in your role as a street sergeant in      17 the 7th District none of the patrol officers in your      18 assignment were to your knowledge relatives of      19 Anthony Abbate as you sit here today?      20 A. Not that I knew about, no.      21 Q. And you haven't learned that as you sit      22 here today, correct?      23 A. That's correct.      24 Q. Sergeant, have you ever -- to your</p>	<p style="text-align: center;">Page 11</p> <p>1 brutality is what they were alleging.      2 Q. As you sit here today do you have any      3 independent recollection of any individual complaints      4 that you were aware of where investigations were      5 undergone -- where investigations were done?      6 A. You lost me.      7 Q. As you sit here today do you have any      8 independent recollection of any particular      9 investigation in connection with a CR file that you      10 were named in?      11 A. Regarding me?      12 Q. Yes.      13 A. No.      14 Q. To your knowledge the best of your      15 recollection is that they probably dealt with      16 excessive force complaints but you're not sure; is      17 that correct?      18 A. I believe so.      19 Q. Okay. Are you aware of whether any of      20 those complaint register files were sustained?      21 A. None of them.      22 Q. Do you know whether any of them were      23 determined to be unfounded?      24 A. I don't recall.</p>
<p style="text-align: center;">Page 10</p> <p>1 knowledge have you ever been named as a subject of a      2 complaint register investigation or file?      3 MS. RUBENS: I'd just object to relevance, but      4 you can answer.      5 THE WITNESS: Yes, I have.      6 BY MR. PROVENZALE:      7 Q. How many times?      8 And let's talk as of February 22nd of 2007,      9 prior to that time.      10 A. I couldn't give you a number.      11 If you were asking me I would probably say      12 a couple.      13 Q. Was it more than ten to your knowledge?      14 A. No.      15 Q. Was it more than five to your knowledge?      16 A. Maybe.      17 Q. It might be somewhere in that --      18 A. It might be somewhere in that vicinity.      19 Q. What do you recall were the subjects of the      20 complaints that you were identified as being named      21 in?      22 A. Most of them probably had to do with my      23 arrests when I was in the gang crime south unit.      24 More than likely they were probably</p>	<p style="text-align: center;">Page 12</p> <p>1 Q. And let me just ask you do you know what      2 the results of any of those were other than you know      3 that they weren't sustained?      4 Do you know what the actual findings on any      5 of those complaint register investigations were?      6 A. I can't recall.      7 It was so long ago.      8 Q. Let me ask you prior to your assignment to      9 internal affairs did you have to go through any type      10 of an interview or vetting procedure for your      11 assignment to IAD?      12 A. Yes.      13 Q. What was that?      14 A. I interviewed with the deputy.      15 Q. With the deputy superintendent?      16 A. Deputy Kirby.      17 Q. And that would have been sometime around      18 October of '04 or prior to that?      19 A. I believe it was sometime April or May of      20 '05.      21 Q. I'm sorry, of '05.      22 Before you went in?      23 A. Before I went into the unit, correct.      24 Q. Do you recall what was the interview --</p>

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<p style="text-align: right;">Page 13</p> <p>1 what occurred during the interview?    2       What kind of questions were you asked?    3       A. I couldn't recall exactly.    4       Asked probably what I did before, where I    5 came from, what kind of investigations I handled, and    6 did I have a resume present and just basic questions.    7       Q. Was there ever any type of topic covered    8 with you regarding the identification of conflicts in    9 connection with you going into IAD and conducting    10 investigations of other police officers or dealing    11 with witnesses with whom you may have a conflict and    12 therefore cannot be involved?    13       MS. RUBENS: I'd just object to vague and    14 relevance.    15       You can answer.    16       THE WITNESS: I'm not sure what you mean by    17 that.    18       You mean would I have a conflict in    19 conducting an investigation?    20       You're asking me if I was assigned an    21 investigation would I have a conflict. If it was    22 someone I knew then it would be brought up that    23 that's someone I know. I can't handle the    24 investigation. It would be reassigned to somebody</p>	<p style="text-align: right;">Page 15</p> <p>1       Q. Okay. When you started in IAD what was the    2 structure of IAD in terms of the divisions that were    3 there, the investigative divisions?    4       MS. RUBENS: I object to foundation.    5       You can answer if you have that knowledge.    6       THE WITNESS: Well, it's run by -- it was run by    7 an assistant deputy superintendent. Then there was a    8 general investigation section, a confidential    9 investigation section, and a special investigation    10 section.    11       There were two lieutenants that ran --    12 actually three lieutenants, one for each section,    13 general, confidential, and special.    14       BY MR. PROVENZALE:    15       Q. Were you assigned to a particular    16 investigative division when you started in IAD?    17       A. I was assigned to confidential when I first    18 came in.    19       Q. And who was your lieutenant when you were    20 assigned to confidential?    21       A. It was Juan Rivera.    22       Q. And how long -- for a how long a period of    23 time after May of '05 were you in the confidential    24 investigation section?</p>
<p style="text-align: right;">Page 14</p> <p>1 else.    2 BY MR. PROVENZALE:    3       Q. That's what I'm getting at.    4       I'm talking about before you got into IAD    5 was that subject ever covered with you in connection    6 with identifying --    7       A. By the deputy?    8       Q. -- or discussing with you your ability to    9 identify what is a conflict and what isn't a conflict    10 for something that you would be involved in as an    11 investigator in IAD.    12       A. By the deputy?    13       Q. Yes.    14       A. Yes.    15       Q. And was there any type of -- other than the    16 discussion, was there any type of formal training    17 that you were given prior to your assignment to IAD    18 where you were given some sort of education or    19 training about how to identify conflicts to determine    20 whether something is or is not a conflict?    21       A. I was a detective for 14 years. I could    22 pretty much see if it was a conflict right off the    23 bat.    24       No, I was never given any formal training.</p>	<p style="text-align: right;">Page 16</p> <p>1       A. A year.    2       Q. So up to May of '06 approximately?    3       A. Correct.    4       Q. And was Lieutenant Rivera your lieutenant    5 through that entire period of time?    6       A. No.    7       Q. At what point of time was he replaced and    8 who replaced him?    9       A. I can't give you the exact date, but he was    10 promoted, and then we ran on an interim acting CO    11 which would have been Keith Calloway, and then    12 another sergeant took -- he was promoted out. Then    13 another sergeant took his spot.    14       Q. Where was Keith Calloway promoted out to?    15       A. I believe he was promoted to lieutenant and    16 sent to the 6th District, I believe.    17       Q. Do you recall about when that was?    18       A. I couldn't tell you the exact date, no.    19       Q. Let me ask you back in March -- February    20 and March of 2007 in connection with this case, who    21 was your lieutenant in IAD?    22       A. Dave Naleway.    23       Q. And he was in charge of general    24 investigations?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. That's correct.      2 Q. As you sit here today do you have any      3 understanding of the decision making process when IAD      4 is involved in an investigation of a complaint of how      5 it's determined what section a complaint is given to      6 for investigation, what investigative section?      7 MS. RUBENS: Objection, vague, calls for      8 speculation, and foundation.      9 You can answer.      10 THE WITNESS: I don't have anything to do --      11 someone assigns those jobs. There's a person in the      12 office who assigns or I think it's actually done by      13 the chief. Now it's the chief.      14 I think there's a conference done and the      15 chief determines where that investigation is going to      16 go, but I have no knowledge until these guys get      17 their jobs.      18 BY MR. PROVENZALE:      19 Q. And that's what I'm asking you.      20 As you sit here today you have no idea how      21 it is that they determine whether it goes into      22 general, special, or confidential investigations when      23 it gets assigned; is that correct?      24 A. That's correct.</p>	<p style="text-align: right;">Page 19</p> <p>1 correct?      2 A. That's correct.      3 Q. How about Sergeant Martin?      4 A. He was assigned to the general      5 investigation section under Lieutenant Naleway.      6 Q. At that same time, right?      7 A. Same time.      8 Q. As you sit here today you don't recall      9 anyone else who was assigned in the general      10 investigation section as a sergeant back in      11 February/March of '07?      12 A. I mean I can tell you names that I remember      13 because I have friends up there and I know they were      14 assigned there.      15 There's some people I know that were      16 assigned to the general investigation section that I      17 know.      18 Q. Who do you remember?      19 A. I mean there's -- Sergeant Ray Broderdorff      20 works in general.      21 Q. Can you spell that?      22 A. B-r-o-d-e-r-d-o-r-f.      23 The administrative sergeant, Sergeant Marcy      24 Solas, S-o-l-a-s. There was Sergeant Tyrone Jackson</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. In February and March of 2007 who else was      2 assigned under Lieutenant Naleway in the general      3 investigation section where you were at?      4 MS. RUBENS: Objection, foundation.      5 You can answer.      6 THE WITNESS: There were numerous people. I      7 can't remember all the names.      8 BY MR. PROVENZALE:      9 Q. Was Sergeant Kenneth Bigg, was he one of      10 them that was assigned directly under Lieutenant      11 Naleway?      12 A. No.      13 Q. What was his assignment at that time?      14 A. At that time he was assigned to the      15 confidential section.      16 Q. Sergeant Maraffino, was he in IAD at that      17 time?      18 A. Yes.      19 Q. Was he assigned to general investigations      20 under Lieutenant Naleway?      21 A. Yes.      22 Q. And again we're talking about the same time      23 period.      24 This is February/March of '07; is that</p>	<p style="text-align: right;">Page 20</p> <p>1 or Tyrone Jordan, I'm sorry, Tyrone Jordan.      2 I mean everybody has offices. I have to      3 try and remember all the sergeants and all the      4 offices.      5 Q. How about Sergeant Brown?      6 A. I know a Sergeant Matt Brown. He's      7 currently assigned as our administrative sergeant for      8 the chief.      9 Q. I'm sorry, go ahead, finish.      10 A. He's assigned to the chief, the chief's      11 administrative sergeant.      12 Q. And that's Matt Brown?      13 A. That's Matt Brown.      14 Q. So he was not assigned to any investigative      15 division back in February/March of '07, he was      16 assigned directly to the chief as the administrative      17 sergeant?      18 A. He's assigned there right now.      19 In '07 I believe -- I'm not going to say      20 for sure, but I believe he was assigned to      21 confidential, Sergeant Matt Brown.      22 Q. Prior to your involvement in this      23 investigation which as I understand it began sometime      24 around February 22nd of 2007 -- and if I'm wrong on</p>

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<p style="text-align: right;">Page 21</p> <p>1 that correct me, but I'm just going to operate from 2 that assumption because that's what the paperwork 3 indicates.</p> <p>4 Prior to that day do you recall any 5 investigations that you were involved in as an IAD 6 sergeant where more than one investigative division 7 was working on the same case, in other words that 8 both confidential and general were working on the 9 same case or special and general, whatever the 10 combination, or all three?</p> <p>11 A. No, not that I can recall.</p> <p>12 Q. Since that time have you become aware of 13 any circumstance of a case that you've been involved 14 in where that has occurred, where more than one 15 investigative section was investigating the same 16 case?</p> <p>17 A. No.</p> <p>18 Q. Other than your involvement have you heard 19 of any such a circumstance prior to February 22nd of 20 2007 where more than one investigative section of IAD 21 was investigating the same case?</p> <p>22 A. No, not that I can recall; no.</p> <p>23 Q. I have -- the first indication in the 24 paperwork that I have of your involvement in this</p>	<p style="text-align: right;">Page 23</p> <p>1 Sergeant Martin, Sergeant Maraffino, and Detective 2 Boyd were all present?</p> <p>3 A. I don't recall that.</p> <p>4 Q. So go ahead and tell me now. Lieutenant 5 Naleway grabbed you and says he wants you to take a 6 look at something?</p> <p>7 A. That's correct.</p> <p>8 Q. Where were you when this occurred?</p> <p>9 A. In the internal affairs offices.</p> <p>10 Q. Was he -- were you at your desk and he's 11 walking by?</p> <p>12 A. I believe I had just got to work and he 13 grabbed me in the hallway before I went in my office.</p> <p>14 Q. Did he give you any further -- in this 15 initial conversation did he give you any further 16 information about what it was that he wanted you to 17 take a look at?</p> <p>18 A. He said he wanted me to take a look at a 19 video.</p> <p>20 Q. Anything else that he said that you recall 21 in that initial contact he had with you?</p> <p>22 A. No.</p> <p>23 Q. And what happened next?</p> <p>24 A. We went downstairs from the fifth floor to</p>
<p style="text-align: right;">Page 22</p> <p>1 investigation is a report that was generated by Dion 2 Boyd who was a detective at the time in the 3 confidential investigation section indicating that 4 you had a meeting in Lieutenant Naleway's office on 5 February 22nd.</p> <p>6 Let me first ask you do you remember a 7 meeting occurring in Lieutenant Naleway's office on 8 February 22nd in connection with some allegation 9 against Anthony Abbate?</p> <p>10 A. There was a meeting, but it wasn't in 11 Lieutenant Naleway's office.</p> <p>12 Q. Let me ask you where do you remember 13 meeting in connection with this case the first time, 14 your first knowledge of some allegation against 15 Anthony Abbate?</p> <p>16 A. My first meeting was when the lieutenant 17 grabbed me and says I need you to take a look at 18 something, Naleway.</p> <p>19 Q. Do you recall what day that occurred on?</p> <p>20 A. I can't recall a date, no.</p> <p>21 Q. Was it the same day that you had -- let me 22 ask you this.</p> <p>23 At some point in time do you recall having 24 a meeting where yourself, Lieutenant Naleway,</p>	<p style="text-align: right;">Page 24</p> <p>1 I don't recall what floor it was in the detective 2 division. I'm not familiar with every floor.</p> <p>3 Q. You're talking about Area 1?</p> <p>4 A. No, at 35th and Michigan, at headquarters.</p> <p>5 Q. And when you got down there did he have the 6 video with him when you guys traveled down there or 7 did you get it down?</p> <p>8 What happened?</p> <p>9 MS. RUBENS: Objection, foundation, speculation.</p> <p>10 Answer if you know.</p> <p>11 THE WITNESS: The video was already down there. 12 The video monitor was down there. That was sitting 13 on a desk.</p> <p>14 BY MR. PROVENZALE:</p> <p>15 Q. Who else was in the room then when you got 16 in there where the video monitor was?</p> <p>17 A. There was another individual. I don't know 18 who it was.</p> <p>19 Q. Was he a police officer?</p> <p>20 A. I believe he was a detective.</p> <p>21 Q. Do you know Dion Boyd?</p> <p>22 A. I know Dion Boyd.</p> <p>23 Q. It wasn't Dion Boyd?</p> <p>24 A. No.</p>

<p style="text-align: center;">Page 25</p> <p>1 Q. How do you know he was a detective?    2 A. I believe I worked with Dion Boyd in    3 Area 1.    4 Q. No, I'm talking about this individual who    5 was in the room that you didn't know who it was.    6 A. He was in the detective division area where    7 only detectives would be. I assumed it was a    8 detective.    9 Q. So other than your assumption that he was a    10 detective because of where this individual was,    11 anything else that you know of that identifies him as    12 a detective?    13 In other words did you see a detective    14 badge or did he identify himself?    15 A. He was dressed in civilian clothes.    16 Q. As you sit here today do you know whether    17 that individual was a state's attorney or an OPS    18 investigator?    19 A. There was an OPS investigator, but I don't    20 know them personally either.    21 There was an OPS investigator who carried    22 that video monitor over to that office.    23 Q. All right. So let's talk about this.    24 Tell me everything you know that -- in</p>	<p style="text-align: center;">Page 27</p> <p>1 Q. And was that investigator from OPS still    2 there?    3 A. I believe he was there, but I can't recall    4 if he was there. I believe he was there.    5 Q. The one individual that you've identified    6 as assuming was a detective, what did that individual    7 look like in terms of --    8 A. He was about six foot five, glasses. I    9 don't remember if he had facial hair or not. He    10 had -- 220 pounds, 225 pounds. He was dressed in    11 civilian dress.    12 Q. What race was he?    13 A. Male white or male white Hispanic. I'm not    14 positive.    15 Q. Was he wearing like street clothes or a    16 suit?    17 A. Street clothes like a tac guy would dress.    18 Q. Do you know who Mike Duffy is?    19 A. I know he works at OPS, but do I know him    20 personally?    21 Q. Right. You don't know as you sit here    22 today whether it was Mike Duffy that was in that    23 room?    24 A. No.</p>
<p style="text-align: center;">Page 26</p> <p>1 terms of what occurred leading up to when you get in    2 this room before the video was played.    3 Lieutenant Naleway contacts you, says I    4 want you to take a look at a video. You guys go down    5 to the third floor, and what do you remember    6 happening at that time?    7 MS. RUBENS: I'm just going to object, vague and    8 calling for a narrative.    9 You can answer.    10 THE WITNESS: They played the videotape.    11 BY MR. PROVENZALE:    12 Q. Well, obviously you've already just said    13 somebody carried in the video monitor.    14 A. It was an OPS investigator. I don't know    15 who it was.    16 He carried it over from 35th and State at    17 the IPRA building and he got it over to there, and he    18 had set it on the desk for us to view the tape that    19 was stored in our drive.    20 Q. How was it that you knew that this    21 individual had carried the --    22 A. When we got down to the third floor the    23 lieutenant said an investigator from OPS brought this    24 over.</p>	<p style="text-align: center;">Page 28</p> <p>1 Q. Do you remember the OPS individual?    2 A. I don't know who it was. I couldn't even    3 describe him for you.    4 Q. So no description in terms of height,    5 weight?    6 A. Nondescriptive.    7 I mean I didn't even pay attention to him.    8 Q. So other than yourself, Lieutenant Naleway,    9 and this individual that you assumed to be a    10 detective, was there anyone else present in the room    11 at the time that the video was played?    12 A. I believe also Deputy Kirby came down when    13 the video was played.    14 Q. Was she there prior to the time it started    15 or did she walk in while it was going?    16 A. I can't recall that.    17 Q. Was there any conversation that you had    18 with yourself and Lieutenant Naleway or this    19 individual who you assumed to be a detective prior to    20 the time the video was played in connection with what    21 was on the video?    22 A. No.    23 Q. And then what do you remember seeing the    24 video depicting?</p>

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1 A. Of a bar and then people drinking at a bar  
 2 and then a fight breaking out in the bar.  
 3 Q. Did you say anything during the course of  
 4 the video and watching the video in terms of reacting  
 5 to the video in any way?  
 6 A. No.  
 7 Q. Did Lieutenant Naleway?  
 8 A. No.  
 9 Q. Did this other individual whom you assumed  
 10 to be a detective?  
 11 A. I don't recall him saying anything.  
 12 Q. And did ADS Kirby say anything?  
 13 A. No.  
 14 Q. What was your understanding as to the  
 15 purpose of watching the video prior to the time that  
 16 you watched it?  
 17 MS. RUBENS: Objection, foundation, speculation.  
 18 You can answer.  
 19 THE WITNESS: I'm assuming to determine what  
 20 that person might be charged with, to watch what was  
 21 going on in that videotape.  
 22 BY MR. PROVENZALE:  
 23 Q. When you say you're assuming that is that  
 24 because there was never any conversation with anyone

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Page 32

1 leading up to the point where the video was played as  
 2 to why you were watching the video?  
 3 A. I believe after they played that someone, I  
 4 don't recall who, said that's an off duty police  
 5 officer.  
 6 I didn't know him. I didn't know anybody  
 7 out there. I didn't know who it was. I just watched  
 8 the fight go on there, and then someone at the end of  
 9 the tape said that's an off duty police officer, and  
 10 then I said that looks like a simple battery.  
 11 Q. And you don't recall who it was that said  
 12 that?  
 13 A. No.  
 14 Q. Did you say that that looks like a simple  
 15 battery before or after you had learned that the  
 16 individual on the tape was identified as a police  
 17 officer?  
 18 A. I probably said it before and after.  
 19 Q. Well, I'm not asking you what you probably  
 20 said. I'm asking what you recall having said.  
 21 MS. RUBENS: And if you don't recall you don't  
 22 recall.  
 23 THE WITNESS: I probably said it -- I said it  
 24 before I found out he was a police officer.

1 BY MR. PROVENZALE:  
 2 Q. You're absolutely sure of that?  
 3 A. Positive.  
 4 Q. And at the time that you said it did you  
 5 have some suspicion that that individual was a police  
 6 officer because it was an IAD matter that you were  
 7 looking at a video at the direction of Lieutenant  
 8 Naleway?  
 9 A. No.  
 10 Q. What else was discussed after the video was  
 11 played in connection with any circumstances about  
 12 that video?  
 13 A. I don't know what you mean by that.  
 14 Q. Well, I mean did anybody say well, we've  
 15 got to investigate this or we're going to follow up  
 16 on it or --  
 17 A. My assumption was that if I was brought  
 18 down there to look at it I was going to be  
 19 investigating it or helping to investigate it.  
 20 Q. And my question is what was discussed about  
 21 that?  
 22 A. After we viewed the videotape we were going  
 23 to go upstairs and talk about how we're going to  
 24 investigate this.

8 (Pages 29 to 32)

<p style="text-align: right;">Page 33</p> <p>1       Q. So tell me -- now you go back up to Deputy 2       Kirby's office. What happens in Deputy Kirby's 3       office?</p> <p>4       A. The discussion is about that that's an off 5       duty police officer. Then she said she was going to 6       contact the felony review unit regarding charges. 7       She made a phone call.</p> <p>8       It was discussed what I thought of it as a 9       detective, what I observed on the tape. We talked 10      about the charging that I charged people before, and 11      then she contacted I believe it was Tom Bilyk from 12      the state's attorney's office.</p> <p>13      Q. So prior to the time that you all went 14      upstairs did Deputy Kirby make any comment about what 15      she thought was the proper charge of what was --</p> <p>16      A. Not that I recall, no.</p> <p>17      Q. Did the individual whom you believe to be a 18      detective, did that individual say anything?</p> <p>19      A. No.</p> <p>20      Q. And did the OPS individual say anything?</p> <p>21      A. No.</p> <p>22      Q. And did Lieutenant Naleway say anything?</p> <p>23      A. No.</p> <p>24      Q. So you were the only one to have expressed</p>	<p style="text-align: right;">Page 35</p> <p>1       you had with Deputy Superintendent Kirby and 2       Lieutenant Naleway was to the effect that the state's 3       attorney's office typically charges these as simple 4       battery so that's the appropriate charge; is that 5       correct?</p> <p>6       A. The conversation was what is the charge 7       that you think is appropriate for what you just 8       observed on the video.</p> <p>9       My opinion was that's a simple battery. 10      Her opinion was let's call the state's attorney's 11      office and run it by them to make their final 12      decision about what we should do.</p> <p>13      Q. And so did she express an opinion one way 14      or the other about whether it should be a misdemeanor 15      battery or a felony aggravated battery?</p> <p>16      A. She didn't express an opinion about that at 17      all.</p> <p>18      Q. Okay. So your recollection is that she 19      just basically said let's let the state's attorney 20      decide?</p> <p>21      A. That's correct.</p> <p>22      Q. And what about Lieutenant Naleway, did he 23      express any kind of opinion during the course of your 24      conversation about what he thought the appropriate</p>
<p style="text-align: right;">Page 34</p> <p>1       an opinion about what the proper charge was when you 2       were still downstairs on the third floor after you 3       had watched the video?</p> <p>4       A. That's correct.</p> <p>5       Q. When you made that comment did anyone ask 6       you your opinion or did you just volunteer it?</p> <p>7       A. I just volunteered it.</p> <p>8       Q. When you got back upstairs then did Deputy 9       Kirby express an opinion about what the appropriate 10      charge was when you were having the discussion in her 11      office?</p> <p>12      A. We had talked about charges by the Cook 13      County State's Attorney's Office and charges they had 14      brought before regarding cases and my experience with 15      the Cook County State's Attorney's Office and her as 16      a police officer, what she observed and what we 17      observed on the tape. It was discussed and talked 18      that based on what we saw it was a simple battery 19      charge.</p> <p>20      Q. Okay. So --</p> <p>21      A. It was three police officers talking about 22      what we saw.</p> <p>23      Q. And what I want to get at so I understand 24      it, your recollection is that the conversation that</p>	<p style="text-align: right;">Page 36</p> <p>1       charge should be?</p> <p>2       A. I don't recall if he expressed an opinion 3       about what the charge should be, no.</p> <p>4       Q. You mentioned that during the course of the 5       conversation that a topic of discussion was that the 6       normal way that the state's attorney would handle a 7       case like that --</p> <p>8       A. That came out of my mouth.</p> <p>9       Q. Out of your mouth, okay. That's what I 10      want to get at is who was the speaker on the end of 11      that discussion.</p> <p>12      A. I made the comment that the state's 13      attorney's office with the dealings that I had for 14 14      years that was a simple battery.</p> <p>15      Q. Did anybody in the room disagree with you 16      other than ADS Kirby saying well, let's call the 17      state's attorney to find out?</p> <p>18      Did anybody say I disagree, I've had cases 19      where they've done something differently?</p> <p>20      A. Not that I can recall, no.</p> <p>21      Q. And then your recollection is that after 22      the conversation that you had with Lieutenant Naleway 23      and Deb Kirby about what you saw on the video and 24      your opinions she then called Tom Bilyk?</p>

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1       A. I'm assuming it was Tom Bilyk. I don't  
2 recall.

3       I believe it was Tom Bilyk, felony review.  
4 She contacted them directly.

5       Q. So whoever it was it was felony review that  
6 she was contacting?

7       A. Somebody from the state's attorney's  
8 office, one of those supervisors up there at felony  
9 review.

10      Q. Other than what you've told me, do you  
11 recall anything else that was discussed during the  
12 course of that conversation that you had with  
13 Lieutenant Naleway and Assistant Deputy  
14 Superintendent Kirby?

15      A. About charging or the investigation?

16      Q. Well, let's just talk about charging.

17      A. No, that was all we talked about as far as  
18 charging.

19      Q. How about as far as the investigation?

20      A. Let's see if we can try and find him now.

21      Q. Okay. At that point did you know -- did  
22 anyone identify who the individual was, that they  
23 knew who it was?

24      A. On the tape?

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1       Q. Yes.

2       A. I believe that we were informed by OPS that  
3 it was Anthony Abbate.

4       Q. That's what I'm getting at.

5       A. Me personally was I informed, no; but I  
6 learned from the lieutenant that it was Anthony  
7 Abbate.

8       Q. All right. At what point did you learn  
9 that from Lieutenant Naleway?

10      A. Could have been on the elevator ride back  
11 up.

12      I don't recall exactly.

13      Q. All right. Do you recall as you were in  
14 the room when the OPS individual was in there whether  
15 or not the OPS individual and Lieutenant Naleway were  
16 talking?

17      MS. RUBENS: Objection, foundation, speculation.

18      THE WITNESS: I don't recall if they were  
19 talking or not.

20      I was watching the tape.

21      BY MR. PROVENZALE:

22      Q. Let me ask you do you know whether or not  
23 Lieutenant Naleway learned the identity of the police  
24 officer in the video as being Anthony Abbate when you

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1       were in that room or whether he had learned it at  
2 some time prior, and I'm talking about in the room  
3 where you watched the video?

4       A. I don't know where he learned about it.

5       Q. Did he ever tell you one way or the other  
6 at some point since then as to when it was that he  
7 learned that the identity of the person in the video  
8 was Anthony Abbate?

9       A. No, he never told me.

10      Q. Up in ADS Kirby's office all you know is  
11 someone told Lieutenant Naleway that this is Anthony  
12 Abbate and Lieutenant Naleway shared that with you,  
13 correct?

14      A. Correct.

15      Q. Did Lieutenant -- was there any discussion  
16 as to how it was that he was identified, that the  
17 person in the video was identified as Anthony Abbate?

18      A. I believe OPS made the identification.

19      I don't know exactly how. I can't tell you  
20 exactly how I know.

21      MS. RUBENS: He's asking if there was any  
22 discussion about it.

23      THE WITNESS: Oh, was there any discussion about  
24 it in that room, no.

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1       BY MR. PROVENZALE:

2       Q. Since that day have you learned how it was  
3 that Anthony Abbate was identified as the person in  
4 that video?

5       A. Not firsthand knowledge, no.

6       Q. Well, from any source, whether somebody  
7 told you hearsay, second, third, whatever.

8       A. No, not that I can recall; no.

9       Q. Other than Lieutenant Naleway identifying  
10 him as Anthony Abbate and the discussion of we've got  
11 to go get him, was there anything else discussed in  
12 connection with the investigation?

13      A. Interviewing the victim. He said we need  
14 to interview the victim too.

15      Q. Was there anyone else present in the room  
16 at that time that came into the room during the  
17 discussion or anything like that?

18      A. No.

19      Q. So this entire discussion regarding the  
20 investigation and the charging was just between or  
21 among yourself, Lieutenant Naleway, and ADS Kirby; is  
22 that correct?

23      A. Correct.

24      Q. When she called whomever it was at the

10 (Pages 37 to 40)

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1 state's attorney's office was that the end of the  
 2 meeting or did it continue after that point?  
 3 A. After they hung up with the state's  
 4 attorney then it was determined to go interview the  
 5 victim and try and find Abbate.

6 Q. Tell me what you recall hearing on your end  
 7 of the conversation that you could hear of Deb Kirby  
 8 talking.

9 A. It was on the speakerphone.

10 Q. Tell me what you heard the conversation  
 11 was.

12 A. She ran by -- she introduced everybody who  
 13 was sitting in the office. She informed him of what  
 14 she had. She said it was an off duty police officer  
 15 that was on the tape. She said it's a bar fight,  
 16 he's taking some swings at her, but a lot of them are  
 17 misses, there's some kicking going on, but from what  
 18 we can see on the tape it appears it's a simple  
 19 battery.

20 Q. And at that point did you know who it was  
 21 that was on the other end?

22 A. I believe it was Bilyk, but I can't recall.

23 Q. Male or female?

24 A. It was a male.

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1 Q. What comments if any do you recall the male  
 2 on the other end making during or after Deb Kirby had  
 3 told him what you had?

4 A. He asked if that's what you guys all think,  
 5 if that's what you think, then I'm okay with that,  
 6 that's okay.

7 Q. Do you recall anything else that he said?

8 A. No.

9 Q. This person whom you believe to be a  
 10 state's attorney on the other end of the line, did he  
 11 make any indication as to any follow-up investigation  
 12 that should be done?

13 A. No, not that I can recall; no.

14 Q. All the recommendations for follow-up  
 15 investigation or the discussion about it was just  
 16 amongst yourself, Lieutenant Naleway, and ADS Kirby  
 17 is that correct?

18 A. That's correct.

19 Q. Was this individual on the phone then while  
 20 you were talking about that?

21 A. No.

22 Q. You terminated the call?

23 A. She terminated the call, yes.

24 Q. From your discussion from the conversation

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1 with this individual on the other end who was the  
 2 state's attorney did it sound to you like that  
 3 individual had already seen the videotape?

4 MS. RUBENS: Objection, foundation, calls for  
 5 speculation.

6 THE WITNESS: It didn't seem like it, no.

7 BY MR. PROVENZALE:

8 Q. And that's what I'm getting at.

9 Was there anything during the course of the  
 10 conversation that suggested to you that the  
 11 individual on the other end of the phone at the  
 12 state's attorney's office had seen the video that you  
 13 and Lieutenant Naleway and Deb Kirby had just seen?

14 A. Nothing in the conversation that I heard,  
 15 no.

16 Q. Prior to the time that Deb Kirby terminated  
 17 that telephone conversation were there any  
 18 arrangements made for follow-up meetings with the  
 19 state's attorney's office for them to take a look at  
 20 the video or for them to be involved in the  
 21 investigation, follow-up investigation?

22 A. I don't recall that.

23 Q. As you sit here today your recollection is  
 24 simply that the individual on the other end of the

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1 phone said something to the effect of well, if that's  
 2 what you think then go ahead with that misdemeanor  
 3 charge, and that was the termination of the call?

4 A. Then she terminated the call with him and  
 5 then told us -- you know, we discussed our part of  
 6 the investigation.

7 Q. So tell me everything that you recall  
 8 yourself, Deb Kirby, and Lieutenant Naleway  
 9 discussing in terms of what was going to be done next  
 10 in the investigation?

11 A. I said before we had to interview the  
 12 victim and try and find Abbate.

13 Q. All right. Anything else other than  
 14 interview the victim and locate Abbate?

15 A. Not that I can recall, no.

16 Q. Other than what we've discussed at this  
 17 point, do you recall anything else that was discussed  
 18 amongst yourself, Lieutenant Naleway, and ADS Kirby  
 19 while you were in her office after you had viewed the  
 20 video of the bar fight?

21 A. Not that I can recall, no.

22 Q. Did the meeting terminate at that point  
 23 after you had all discussed what it was you were  
 24 going to do next in terms of identifying Abbate and

11 (Pages 41 to 44)

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1 locating the victim?  
 2 MS. RUBENS: Asked and answered.  
 3 You can answer again.  
 4 THE WITNESS: Yes, let's do our job.  
 5 BY MR. PROVENZALE:  
 6 Q. So what did you do next?  
 7 A. Then I went out and I waited for Detective  
 8 Boyd to get there because she wanted a detective to  
 9 go along for the interview.  
 10 And then Lieutenant Naleway told Sergeant  
 11 Maraffino and Sergeant Martin try and find Abbate.  
 12 Q. So at some point in time yourself,  
 13 Lieutenant Naleway, Dion Boyd, Sergeant Maraffino,  
 14 and Sergeant Martin are all more or less in the same  
 15 place at the same time discussing what's going to be  
 16 done next?  
 17 A. Never, no.  
 18 Q. That's not correct?  
 19 A. No.  
 20 Q. Tell me to your recollection what was --  
 21 what happened once Detective Boyd was brought in on  
 22 the -- Strike that.  
 23 Let me ask you first how was Detective Boyd  
 24 brought in on this investigation as far as you're

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1 aware at that time?  
 2 MS. RUBENS: Objection, foundation, calls for  
 3 speculation.  
 4 THE WITNESS: I believe Detective Kirby  
 5 requested that he come over.  
 6 BY MR. PROVENZALE:  
 7 Q. Did she call him or did she call his  
 8 lieutenant or do you know what she did?  
 9 A. I'm assuming she called his office.  
 10 MS. RUBENS: You're not required to assume.  
 11 Just testify what you know.  
 12 BY MR. PROVENZALE:  
 13 Q. Just what you know.  
 14 A. I don't know.  
 15 Q. He showed up at some point later?  
 16 A. Yes.  
 17 Q. And who was present when he showed up?  
 18 A. Me.  
 19 I don't recall who else was there when he  
 20 showed up.  
 21 Q. Was Lieutenant Naleway there?  
 22 A. I don't know where he was, but he was on  
 23 the floor.  
 24 MS. RUBENS: I'll just say vague as to where.

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1 BY MR. PROVENZALE:  
 2 Q. Well, I'm talking like present when he  
 3 arrived, present where you were.  
 4 Was Lieutenant Naleway there when Dion Boyd  
 5 arrived where you were?  
 6 A. No.  
 7 Q. To your knowledge did Detective Boyd ever  
 8 have a discussion with Lieutenant Naleway where you  
 9 saw them talking and you didn't know what they were  
 10 talking about?  
 11 A. I don't recall.  
 12 I never saw that.  
 13 Q. When Detective Boyd got there what did you  
 14 and he talk about if anything?  
 15 A. Driving out to the victim's house.  
 16 Q. As of that point in time were you aware  
 17 whether or not from any source the victim had been  
 18 interviewed previously?  
 19 A. Yes, I was aware of that.  
 20 Q. And how did you become aware of that?  
 21 A. I believe we had -- I know I had copies of  
 22 the OPS interview.  
 23 Q. So in connection with the copies of the OPS  
 24 interview you had a typed statement that she had

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1 signed; is that correct?  
 2 A. I don't recall.  
 3 Q. Do you recall who it was that was the  
 4 officer who took the statement from OPS, the  
 5 investigator?  
 6 MS. RUBENS: Objection, vague.  
 7 THE WITNESS: I don't understand the question.  
 8 BY MR. PROVENZALE:  
 9 Q. When you saw the statement from OPS do you  
 10 remember seeing who the investigator was that took  
 11 the statement?  
 12 A. I don't recall a name on it, no.  
 13 Q. Do you know who Investigator Kamalick is,  
 14 K-a-m-a-l-i-c-k?  
 15 A. I don't know him personally, no.  
 16 Q. Ever hear of him?  
 17 A. No.  
 18 Q. As you sit here today then you don't know  
 19 whether or not Investigator Kamalick was the one who  
 20 had taken the victim's statement that you had the  
 21 opportunity to read as of that point when you and  
 22 Detective Boyd had met?  
 23 A. As I sit here today I don't know that  
 24 person.

12 (Pages 45 to 48)

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1 Q. Did you get -- in addition to the statement  
 2 that you read, did you see a sworn affidavit or  
 3 certification from the victim as to the truth of what  
 4 was in the statement?

5 A. I saw a copy of a sworn affidavit, yes.

6 Q. Did you see any other supplemental reports  
 7 in connection with additional statements that the  
 8 victim had given regarding more detail about what  
 9 happened in the bar or what happened after Abbate  
 10 left and when responding officers arrived or anything  
 11 like that?

12 A. No, I don't recall seeing anything like  
 13 that.

14 Q. As of the time that you had met with  
 15 Detective Boyd, so when Detective Boyd shows up, at  
 16 that time had you learned anything regarding whether  
 17 Anthony Abbate after the fight in the bar occurred  
 18 had threatened the bartender or the owner of the bar  
 19 with false arrest or planting evidence on them in  
 20 order to get the videotape from them?

21 A. I didn't know anything about that.

22 Q. So as of the time that you met with  
 23 Detective Boyd you never heard any allegation that  
 24 Anthony Abbate had threatened or intimidated any of

1 I just remember those striking me. If  
 2 there was other paperwork I don't recall what was in  
 3 there.

4 Q. The case report, was this a handwritten  
 5 case report or was it one of the --

6 A. It was a copy of a handwritten general  
 7 offense case report, a photocopy.

8 Q. Do you recall that copy of the general  
 9 offense case report that was handwritten that you saw  
 10 whether it identified Anthony Abbate as the suspect  
 11 or offender?

12 A. In that case report that I saw it did not.

13 Q. And your recollection what it identified  
 14 was the offender was someone named Tony, last name  
 15 unknown, with a general physical description?

16 A. I don't recall if it said his name in the  
 17 offender's box. I don't recall.

18 Q. In any event the actual identity of the  
 19 offender in the report that you read was not known;  
 20 is that correct?

21 MS. RUBENS: Asked and answered.

22 THE WITNESS: That's correct.

23 BY MR. PROVENZALE:

24 Q. And the only -- Strike that.

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1 the witnesses or parties involved in the bar fight  
 2 that had occurred days before; is that correct?

3 A. That's correct.

4 Q. And during the course of the conversation  
 5 that you and Lieutenant Naleway and ADS Kirby had  
 6 with this individual from the state's attorney's  
 7 office in that meeting that we've already discussed,  
 8 there was never any discussion regarding that kind of  
 9 an allegation, that Anthony Abbate had threatened the  
 10 bartender or the owner of the bar with false arrest  
 11 or planting evidence or arresting people for DUI when  
 12 they left the bar?

13 A. That's correct. That never came up.

14 Q. Do you recall how it was that you learned  
 15 of where the victim was when you were preparing to go  
 16 and take a statement from her?

17 A. I believe it had a home address listed on  
 18 the information that we had from OPS.

19 Q. Tell me everything, as you sit here today,  
 20 everything you recall reviewing from OPS prior to the  
 21 time that you went to take the victim's statement.

22 A. There was a copy of a case report. There  
 23 was a copy of a statement. There was a copy of an  
 24 affidavit.

1 When you had discussed the investigative  
 2 avenue of taking a statement from the victim with ADS  
 3 Kirby and Lieutenant Naleway in ADS Kirby's office --

4 A. The taking a statement was never discussed.  
 5 We were going to go out and interview the victim.

6 Q. Go and interview her. That's what I meant.

7 A. That's two different things then. Taking a  
 8 statement and interviewing is two different things.

9 Q. Let's say interviewing her.

10 MS. RUBENS: Thank you for clarifying.

11 BY MR. PROVENZALE:

12 Q. When you had discussed going out and  
 13 interviewing the victim had you already had in your  
 14 possession and reviewed the prior statement and the  
 15 sworn verification that the victim had made and given  
 16 to OPS?

17 A. You asked me that already.

18 The sworn affidavit and the statement was  
 19 part of that package I saw.

20 Q. I'm talking about -- really what I'm  
 21 getting at, Sergeant, is when you saw those things.

22 A. Before we left. We had that before we  
 23 left.

24 Q. Before you left like right when you met

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1 with Detective Boyd that's when you looked over the  
 2 things or did you already have those materials when  
 3 you were in ADS Kirby's office?

4 That's what I'm getting at.

5 A. Before Detective Boyd got there I was given  
 6 a copy of all that stuff. I reviewed it before  
 7 Detective Boyd got there.

8 Q. Was that after your meeting that you had?

9 A. That was after the meeting with the ADS.

10 Q. After you had reviewed those materials did  
 11 you go back to ADS Kirby or to your lieutenant and  
 12 say why are we going out to interview a victim who's  
 13 already given a sworn statement?

14 A. No.

15 Q. At that point you have the OPS report that  
 16 has the victim's contact information on it.

17 Did you contact the victim to let her know  
 18 that you were coming?

19 A. No.

20 Q. Why didn't you do that?

21 A. I wanted to show up at her doorstep and  
 22 interview her in person.

23 Q. Without any advance warning, correct?

24 A. That's correct.

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1 Q. And you and Detective Boyd then went to her  
 2 house unannounced, correct?

3 A. Correct.

4 Q. And when you arrived tell me did she answer  
 5 the door or did somebody else?

6 A. She answered the door.

7 Q. And what was her demeanor when she answered  
 8 the door?

9 A. She was pleasant.

10 Q. She wasn't surprised to see anybody from  
 11 the Chicago Police Department?

12 A. No.

13 Q. She didn't exhibit any apprehension of you  
 14 being there unannounced?

15 A. No.

16 Q. Tell me what you said to her or what  
 17 Detective Boyd said to her and what she said to you  
 18 when she first opened the door.

19 A. I identified myself as a sergeant with the  
 20 police department from internal affairs. He  
 21 identified himself as a detective from internal  
 22 affairs. He said we'd like to speak to you about the  
 23 incident that happened at the bar.

24 Q. And what was her response to that?

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1 A. She said sure, you guys can't get in the  
 2 front door here, it's messed up, you guys mind  
 3 walking around the back and coming in, and we said no  
 4 problem.

5 Q. So at no time did she ever say anything to  
 6 the effect of why am I giving another statement, I've  
 7 already given several statements to the police  
 8 department?

9 A. Never said that.

10 Q. So you go around to the back door and come  
 11 in the house?

12 A. Correct.

13 It's an apartment building.

14 Q. And tell me what happens when you get into  
 15 her apartment.

16 A. We walked up a back stairway. She opened  
 17 up the door and led us into a small kitchenette area  
 18 of her apartment.

19 Q. Did you all sit down at the kitchen table?

20 A. At the kitchen table, correct.

21 Q. And tell me what the conversation was when  
 22 you sat down.

23 A. We told her we'd like to ask you a couple  
 24 questions about what happened. She said sure, no

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1 problem.

2 Q. Who was this that's talking?

3 A. Both of us were talking.

4 Q. Both you and Detective Boyd?

5 A. Yes.

6 Q. And one or the other or both of you said  
 7 we'd like to ask you some questions and she says  
 8 okay?

9 A. Yes.

10 Q. And you identified the questions that you  
 11 want to ask her is about what had happened at the  
 12 bar; is that correct?

13 A. I asked some questions, could you tell us  
 14 again what happened at the bar.

15 Q. Okay. And what do you remember her telling  
 16 you?

17 A. She said he came in, he ordered a couple  
 18 drinks, he was drinking with his friends, he was  
 19 hitting his buddy, he had a few drinks, then he  
 20 ordered a round of drinks for the bar, he couldn't  
 21 pay for them, someone else paid for them, then he  
 22 ordered another round of drinks, he said he can't pay  
 23 for them, then someone else paid for them, then he  
 24 tried to order another round, she said you don't have

14 (Pages 53 to 56)

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1 any money and I'm not going to serve you any more 2 drinks. 3 Q. Everything that you just relayed there, is 4 that a summary of what she said -- 5 A. Pretty much. 6 Q. -- or did she just basically narrate it the 7 way that you just did? 8 A. No, I'm summarizing it for you. 9 Q. So this is sort of a question and answer, 10 she'd say something, you'd ask her questions, she'd 11 answer back, something like that? 12 A. Correct, but I can't recall all the 13 questions I may have asked or he may have asked. 14 Q. You never created a report in connection 15 with the interview you conducted of Karolina Obrycka 16 on that date; is that correct? 17 A. That's correct. 18 Q. After you had learned that initial -- did 19 you ask her any questions in follow-up for details 20 about her injuries or where he hit her or how it felt 21 or anything like that? 22 A. I asked her about her injuries. 23 Q. And what did she say? 24 A. She says I have some bruises on my arms.	1 regarding that statement? 2 A. Right. 3 I consider that statement from her an OPS 4 report. 5 Q. You said a narrative and I'm thinking maybe 6 there's something else. 7 A. To me a statement is a narrative of a 8 statement. That's a narrative. 9 Q. I want to make sure all of our definitions 10 are right so I don't misunderstand anything. 11 A. Okay. 12 Q. When you just said that you remember seeing 13 in the narrative you're talking about the narrative 14 statement that she had executed to OPS -- 15 A. Correct. 16 Q. -- that you had the opportunity to review 17 prior to going, correct? 18 A. Correct. 19 Q. Okay. Do you recall any other reports that 20 you had reviewed other than -- listen so you don't 21 jump on me -- the original case report, her narrative 22 statement with the sworn verification? 23 A. Sworn affidavit. 24 Q. And sworn affidavit.
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1 She didn't show it. She says I'm bruised on my back, 2 and she lifted up her shirt. She showed me her back, 3 and I could see a slight bruise. 4 Q. Did you take any pictures of the injuries? 5 A. No, I did not. 6 Q. Prior to the time that you had left, in the 7 materials that you had reviewed back at IAD did you 8 see any photographs of injuries that were taken of 9 her prior to that time? 10 A. I did not see any photographs, no. 11 Q. Were you aware when you left to go speak 12 with her whether or not any photographs had been 13 taken of any injuries? 14 A. If I recall correctly I thought I saw in 15 the narrative that photographs were taken of her. 16 Q. And you're talking about the narrative of 17 what? 18 A. The OPS report that I had reviewed. 19 Q. So let me clarify then because I 20 misunderstood. 21 As I understood it you said that you had an 22 opportunity to review a statement that she had made? 23 A. Right. 24 Q. A sworn verification that she had executed	1 Anything else? 2 A. There were other reports there. As I 3 stated before I don't recall what they were. I can't 4 recall, but I remember those definitely were in 5 there? 6 Q. Let me put it out there like this. 7 At a minimum whatever it was you reviewed 8 none of it indicated any statement from any person 9 indicating that Anthony Abbate after the beating had 10 threatened the owner of the bar and the bartender 11 that if they didn't turn the video over that he was 12 going to falsely arrest them, plant drugs on them 13 and/or customers coming out of the bar? 14 A. I didn't see any of that when I reviewed 15 any of the paperwork. 16 Q. The bruise that you saw on her back you 17 said -- you had mentioned it was on her right side? 18 A. Other side. 19 Q. Left side? 20 A. Uh-huh. 21 Q. Do you recall what the dimensions of that 22 bruise were? 23 A. No, I don't. 24 Q. Do you recall like what stage of the bruise

<p style="text-align: right;">Page 61</p> <p>1 it was in?</p> <p>2 A. It wasn't dark.</p> <p>3 Q. Do you recall when you saw that bruise of 4 connecting that up with some -- one of the punches 5 that actually landed from or a kick that you saw 6 Anthony Abbate do on the video that you had seen?</p> <p>7 MS. RUBENS: I'm just going to object to 8 foundation.</p> <p>9 He's not a reconstructionist, but you can 10 answer.</p> <p>11 THE WITNESS: I'm assuming that that's where it 12 came from was a kick.</p> <p>13 I mean the way it was on her back it 14 wouldn't have been from a punch I would assume. My 15 assumption as a police officer would be that you were 16 kicked in the back.</p> <p>17 BY MR. PROVENZALE:</p> <p>18 Q. Well, what I'm asking is --</p> <p>19 A. Could I have seen that when I watched the 20 videotape seeing if that was the exact blow that she 21 took, no, no.</p> <p>22 Q. Did you ever go back to the video to verify 23 that what you saw on that location of her body lined 24 up with some blow that was --</p>	<p style="text-align: right;">Page 63</p> <p>1 beat her up.</p> <p>2 A. I'll never be able to recall everything she 3 said, but I know she said it was a -- she believed it 4 was a policeman and his name was Tony.</p> <p>5 That's what I can remember her saying.</p> <p>6 Q. Did she say anything else other than just 7 that his name was Tony?</p> <p>8 Did she say his last name is something 9 like?</p> <p>10 A. No.</p> <p>11 Q. She never said anything like that?</p> <p>12 A. No.</p> <p>13 Q. At some point -- well, strike that.</p> <p>14 So she generally described to you what had 15 occurred in terms of this individual attacking her 16 and then the circumstances leading up to it of him 17 drinking and her cutting him off and then she showed 18 you the injuries.</p> <p>19 Anything else other than what you've said 20 so far on those subjects?</p> <p>21 Any other subjects that she discussed with 22 you during the course of this interview?</p> <p>23 A. No, just what happened in the bar.</p> <p>24 Q. So what happened then at that point once</p>
<p style="text-align: right;">Page 62</p> <p>1 A. No.</p> <p>2 Q. Let me finish the question.</p> <p>3 A. I only watched that videotape that one time 4 until people saw it on the news. That's it.</p> <p>5 Q. And just for this poor lady's sake you and 6 I talking is going -- she's going to get up and walk 7 out. So you've got to let me finish the question, 8 okay?</p> <p>9 A. Okay.</p> <p>10 Q. So after you had interviewed her you did 11 not go back and review that tape, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Did she make any statement to you during 14 this interview where she recalled any facts about 15 knowing who the individual was that had attacked her?</p> <p>16 A. By name?</p> <p>17 Q. Yes.</p> <p>18 A. Full name?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. What did she say?</p> <p>22 Tell me everything you recall her saying 23 during this interview that you and Detective Boyd did 24 of her regarding her identifying who it was that had</p>	<p style="text-align: right;">Page 64</p> <p>1 you concluded taking a statement from her -- I should 2 say an interview with her?</p> <p>3 What did you do?</p> <p>4 A. We told her we're going to try and arrest 5 him for simple battery, we're going to try and put 6 him in jail, I need you to sign a complaint right 7 now, would you sign a complaint.</p> <p>8 Q. All right. And so you told her you were 9 going to arrest him?</p> <p>10 A. We're going to try and arrest him, yes.</p> <p>11 Q. And what was her response when you said 12 that?</p> <p>13 A. She said good, he belongs in jail.</p> <p>14 Q. Is that -- those are -- to the best of your 15 recollection that's verbatim what she said?</p> <p>16 A. That's not verbatim. That's to the best of 17 my recollection, good, he belongs in jail. That's my 18 interpretation of what she said.</p> <p>19 I can't recall exactly.</p> <p>20 Q. As you sit here today whether she said just 21 simply good or good, he belongs in jail, you don't 22 recall; is that correct?</p> <p>23 A. No, I don't recall.</p> <p>24 MS. RUBENS: Asked and answered.</p>

<p style="text-align: right;">Page 65</p> <p>1 BY MR. PROVENZALE:      2 Q. Did you already have complaint forms that      3 were filled out when you went to go see her?      4 A. I don't recall.      5 It might have been a blank complaint form      6 that I had her sign for battery. It was a      7 misdemeanor complaint.      8 Q. Was anything typed into it prior to the      9 time that you left?      10 A. No, I don't think -- I don't recall typing      11 anything into the complaint before I left the office.      12 Q. So it didn't identify People of the State      13 of Illinois versus Anthony Abbate?      14 A. No, it did not.      15 Q. It didn't identify that on such and such,      16 the fill in the blanks in terms of the name of the      17 defendant, the date?      18 A. I don't recall if it did or did not, no.      19 Q. To the best of your recollection it was a      20 blank?      21 A. It was just a blank misdemeanor form,      22 correct.      23 Q. And so what you presented was a blank      24 misdemeanor complaint form for her to sign; is that</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. At that point then you had terminated the      2 interview and left?      3 A. Correct.      4 Q. After she signed it?      5 A. Correct.      6 Q. Other than what you've testified about in      7 connection with the events and the conversation that      8 occurred during the course of the interview, is there      9 anything else that you recall that occurred that you      10 think is important in connection with what happened      11 in that interview?      12 A. No.      13 Q. You then left the interview, is that      14 correct, to go back to IAD --      15 A. That's correct.      16 Q. -- with Detective Boyd?      17 A. That's correct.      18 Q. And when you arrived back at IAD tell me      19 what you did.      20 A. Lieutenant Naleway was still there. We      21 told him we had interviewed Obrycka, and he told me      22 that Sergeant Maraffino and Sergeant Martin were out      23 looking for Abbate.      24 Q. And did he tell you where they were looking</p>
<p style="text-align: right;">Page 66</p> <p>1 correct?      2 A. For simple battery. I believe the simple      3 battery part was filled out, I believe.      4 I can't recall. I can't recall.      5 Q. So regardless you presented to her a      6 complaint; is that correct?      7 A. A misdemeanor complaint for battery, yes.      8 Q. Did you explain to her what that was?      9 A. Yes, it was a misdemeanor complaint saying      10 that he struck you and kicked you and when he was      11 arrested he would be charged and we would notify you      12 of the court date.      13 Q. Did she ask you any questions about what      14 all that meant?      15 A. No.      16 Q. She signed it; is that correct?      17 A. That's correct.      18 Q. Did you or Detective Boyd witness her      19 signature in her presence?      20 A. You know, I don't recall.      21 Q. And your testimony is that you told her      22 that you would notify her of the court information      23 after he was arrested; is that correct?      24 A. That's correct.</p>	<p style="text-align: right;">Page 68</p> <p>1 for him at?      2 A. I believe he said they were going to go to      3 where he was supposed to be at work and then they      4 were going to go to his residence.      5 Q. Were you aware what district Abbate was      6 assigned at that time?      7 A. I don't recall.      8 Q. Prior to your returning to IAD had you had      9 any conversations with either Sergeant Maraffino or      10 Sergeant Martin about their involvement in the      11 investigation?      12 A. Prior to leaving Obrycka's house?      13 Q. Right.      14 In other words when you were back at IAD      15 prior to even going to her house did you ever talk      16 with them or were present with when they were either      17 being assigned part of the investigation or talking      18 about --      19 A. I heard them being assigned by Lieutenant      20 Naleway to try and find him and then they knew I was      21 going to interview her.      22 Q. And Detective Boyd was present at that time      23 I take it?      24 A. I don't recall if he was present or not.</p>

1 Q. During the course of the interview with  
 2 Miss Obrycka did she ever tell you what her  
 3 experiences -- what she had done with OPS  
 4 investigators prior to that time?

5 A. Not that I recall, no.

6 Q. Do you remember her saying anything that  
 7 OPS had taken pictures of her injuries prior to the  
 8 time that you and Detective Boyd got there?

9 A. I don't recall her saying that.

10 Q. Do you remember her saying anything about  
 11 her having picked Mr. Abbate out of a photo lineup  
 12 prior to the time that you and Detective Boyd showed  
 13 up at her house?

14 A. I don't recall if that came up either.

15 Q. Did you report back to Lieutenant Naleway  
 16 what it is that you had learned from the victim  
 17 Karolina Obrycka after your interview with her?

18 A. It was the same thing he already knew  
 19 about.

20 There was nothing -- we just reported we  
 21 interviewed her and we had her sign a complaint.

22 Q. The answer is no then you didn't report  
 23 back to him about --

24 A. I reported back to him.

1 I didn't learn anything new. That should  
 2 be my answer. I didn't learn anything new that we  
 3 already didn't know.

4 Q. So that's what I'm getting at.

5 You get back to IAD, you do go to him and  
 6 you tell him we didn't learn anything new, we had her  
 7 sign a complaint?

8 A. That's correct.

9 Q. And that was the entirety of your report  
 10 back to him; is that correct?

11 A. That's correct.

12 Q. And then after reporting back to Lieutenant  
 13 Naleway then did you and Detective Boyd have a  
 14 conversation about who was going to paper that  
 15 portion of the investigation?

16 A. No.

17 Q. Was there some preexisting understanding as  
 18 to who was going to do that?

19 A. Yes.

20 Q. Because the detective always does that?

21 A. That's correct.

22 Q. All right. Did you do -- the privileges.

23 A. Well, I was a detective so I know. If the  
 24 sergeant says you do the report you do the report,

1 and we're not allowed as sergeants to do a detective  
 2 supplementary report just so you guys are aware of  
 3 that.

4 Q. And that's an IAD policy or is that --

5 A. That's a bureau of investigative services  
 6 policy.

7 Q. But regardless of who did the actual  
 8 investigative report or supplemental report you  
 9 didn't do any to/froms regarding any other  
 10 circumstances of what you learned during the course  
 11 of your interview with her or anything else; is that  
 12 correct?

13 A. That's correct.

14 Q. Tell me what your next involvement was in  
 15 this case after you had returned and reported to  
 16 Lieutenant Naleway that you didn't learn anything new  
 17 and you had had her sign a complaint.

18 A. My next involvement -- well, those guys  
 19 returned and said they didn't find her.

20 So that was the end of my tour for that  
 21 day.

22 Q. Find her or him?

23 A. Him, I'm sorry, they didn't find him.

24 They returned and said they weren't able to

1 find him. So my tour ended at midnight so I went  
 2 home.

3 Q. So Sergeants Maraffino and Martin returned  
 4 at some point later on that night?

5 A. Later on in the evening, right.

6 Q. And what did they -- you had a conversation  
 7 with them or did you hear them reporting to somebody?

8 A. I had a conversation with them.

9 Q. What do you remember -- and if you can  
 10 specify who it was that you remember learning it  
 11 from, what do you remember learning?

12 A. It was probably Sergeant Maraffino, that  
 13 they didn't find him at work and they didn't find him  
 14 at his house.

15 Q. Did they learn any information as to his  
 16 whereabouts from anyone other than just showing up at  
 17 places and not finding him there?

18 A. They had just showed up at places and they  
 19 didn't find him there.

20 Q. Are you aware of whether they did any  
 21 further investigation to attempt to locate him by  
 22 talking with family members of Abbate or anything  
 23 like that?

24 A. I don't know.

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1 Q. At that time when they had returned back to  
 2 IAD that evening did they advise you that well,  
 3 apparently he's checked into a rehab facility  
 4 somewhere and we can't get him?

5 MS. RUBENS: I object to vague as to they.  
 6 Did anyone advise him?

7 BY MR. PROVENZALE:

8 Q. I'm saying did either Maraffino or Martin  
 9 advise you that they had learned that Abbate had  
 10 checked into a rehab facility?

11 A. They didn't tell me that that night, no.

12 Q. So the end of your tour comes. You're done  
 13 with your shift.

14 What's your next involvement in this case  
 15 after that day?

16 A. The next day I returned for my tour of duty  
 17 at 4:00 and I learned -- I believe the lieutenant  
 18 informed me that Abbate has checked himself into a  
 19 rehab facility.

20 Q. And you're talking about Lieutenant  
 21 Naleway?

22 A. Correct.

23 Q. What did -- did he tell where it was that  
 24 he learned that information from?

1 A. We know he's in a rehabilitation facility,  
 2 we can't get to him, we can't find him, so there's no  
 3 reason to look for him.

4 Q. But other than that Lieutenant Naleway did  
 5 not share with you how he learned that information or  
 6 from whom he learned it; is that correct?

7 A. That's correct.

8 Q. Is it correct that as of the end of your  
 9 shift the prior day, the day you had Karolina Obrycka  
 10 sign the complaint after you had interviewed her,  
 11 that you did not obtain a warrant at that time from a  
 12 judge?

13 A. That is correct.

14 Q. And the next day you did not obtain a  
 15 warrant; is that correct?

16 A. That is correct.

17 Q. In fact you didn't obtain a warrant on the  
 18 case until March 14th; is that correct?

19 A. I did not obtain a warrant.

20 Q. In fact there was never a warrant obtained,  
 21 right?

22 A. I don't recall.

23 I don't know.

24 Q. Did you ever have a conversation with

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1 A. He did not.

2 I don't recall, no.

3 Q. Did he tell you what rehab facility it was?

4 A. No.

5 Q. Did he tell where the rehab facility was  
 6 at?

7 A. No.

8 Q. Was he telling you this because he wanted  
 9 you to go and locate Abbate or was this just sort of  
 10 an informational follow-up to let you know where  
 11 things stood, or what was your understanding of him  
 12 telling you this?

13 A. There was no reason to look for him anymore  
 14 because you couldn't find him anyway.

15 Q. Well, the looking for him portion of the  
 16 investigation was Martin and Maraffino's job, right?

17 A. But I mean if one of those sergeants wasn't  
 18 coming in that night then it would fall back on a  
 19 sergeant that was present.

20 Q. In any event it's your understanding he was  
 21 informing you to generally let you know as part of  
 22 the investigation and whether it means for you not to  
 23 look for him any further, we know where he's at, you  
 24 don't have to look for him?

1 Lieutenant Naleway or ADS Kirby where either of them  
 2 directed you not to get a warrant signed by a judge  
 3 to arrest Mr. Abbate on the sworn complaint of  
 4 Miss Obrycka?

5 A. Never had any type of conversation like  
 6 that at all.

7 Q. Was there ever any discussion that you were  
 8 present during at which time either ADS Kirby or  
 9 Lieutenant Naleway discussed the timing of obtaining  
 10 a warrant for Mr. Abbate on the sworn complaint  
 11 Miss Obrycka had signed in your presence?

12 A. Never had any type of discussion like that  
 13 with either one of them.

14 Q. After you had learned that Mr. Abbate was  
 15 in a rehab facility from Lieutenant Naleway do you  
 16 recall any discussion of well, don't you think we  
 17 ought to get a warrant now because it doesn't look  
 18 like he's going to turn himself in?

19 A. Never a discussion about that at all.

20 Q. Generally on cases that you've been  
 21 involved in prior to this time in February of 2007,  
 22 so whatever this day was in February of '07, in your  
 23 experience on cases where an officer was accused of  
 24 committing a crime and that IAD was involved to the

19 (Pages 73 to 76)

<p style="text-align: center;">Page 77</p> <p>1 extent of doing a criminal investigation and charging 2 portion of it, where IAD did not get an arrest 3 warrant on the complaint signed by a citizen? 4 A. I can only answer me personally; and no, 5 I've never done it. 6 I can't answer for the other sergeants that 7 are up there. 8 Q. I'm just asking you personally. 9 A. No, never done it. 10 Q. And your experience is because you simply 11 contact the officer and tell them to surrender, 12 correct? 13 A. That's usually the way it's done, correct. 14 Q. Have you ever been involved in a case 15 personally where you could not locate the officer and 16 a supervisor then didn't tell you well, you better go 17 get a warrant so that we have it if he's not going to 18 turn himself in? 19 A. You're talking as a sergeant or as a 20 detective? 21 Q. I'm talking about as a sergeant in IAD, in 22 an IAD investigation. 23 A. No. Me personally I've never had that 24 happen, no.</p>	<p style="text-align: center;">Page 79</p> <p>1 A. Right. 2 No, I've never obtained a sworn complaint 3 against a police officer; no. 4 Q. And it's correct that up to the point in 5 time where Mr. Abbate did finally surrender on March 6 14th to you and to Sergeant Bigg that there was no 7 discussion that you had with either ADS Kirby or 8 Lieutenant Naleway about obtaining a warrant for his 9 arrest on the sworn complaint of Karolina Obrycka; is 10 that correct? 11 A. That's correct. There was never a 12 discussion about a warrant. 13 Q. And therefore you were never directed to do 14 that or not directed to do that correct? 15 A. Correct, no discussion of a warrant. 16 Q. Other than the following day then -- we're 17 talking about the day when Lieutenant Naleway 18 informed you of where it was that Mr. Abbate is 19 apparently at -- what was your next involvement in 20 the circumstances of the investigation of Mr. Abbate? 21 A. When I came into work one afternoon at 4:00 22 and the lieutenant informed me that Abbate was to 23 turn himself in at 6:00 that evening. 24 Q. Lieutenant Naleway again?</p>
<p style="text-align: center;">Page 78</p> <p>1 Q. In every case that you were involved in 2 prior to this case in which a citizen swore out a 3 complaint for whatever, misdemeanor or felony -- 4 well, it wouldn't be a felony -- for a misdemeanor, 5 that you were able to contact and locate the officer 6 and direct him to surrender shortly after the 7 complaint was signed; is that correct? 8 A. Me personally I've never handled anything 9 like that until Abbate. 10 Q. Well, then let's talk about that then. 11 So prior to this case had you ever been 12 involved in a case where an officer was charged with 13 a crime as part of an IAD investigation? 14 A. Me personally, no. 15 Q. So prior to this time you didn't have any 16 practice of whether or not you would or would not 17 pursue a warrant along with a complaint because you 18 had never obtained a sworn complaint against a police 19 officer as an IAD investigator, correct? 20 A. I've never obtained a sworn complaint 21 against a police officer. 22 Sworn affidavits, yes; but never a sworn 23 complaint against a police officer, no. 24 Q. I'm talking about criminal.</p>	<p style="text-align: center;">Page 80</p> <p>1 A. Yes, sorry, Lieutenant Naleway. 2 Q. And you prepared an arrest report in 3 connection with that circumstance; is that correct? 4 A. That's correct. 5 MR. PROVENZALE: And I'm just going to ask the 6 court reporter if I can get an exhibit sticker. 7 (Stehlik Deposition Exhibit No. 1 was 8 marked for identification.) 9 BY MR. PROVENZALE: 10 Q. Sergeant, I'm going to show you a one-page 11 document. 12 A. It's a supplementary report. 13 Q. It's not an arrest report. It's a 14 supplementary report. 15 I'm going to ask you can you just tell me 16 do you recognize that document? 17 A. Yes. 18 Q. And that's a supplementary report that you 19 authored in connection with the arrest of Mr. Abbate 20 when he turned himself in on March 14th of 2007; is 21 that correct? 22 A. That's correct. 23 Q. And you note in this supplementary report 24 that the victim was notified of the court</p>

20 (Pages 77 to 80)

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1 information?  
 2 A. Correct.  
 3 Q. What did you do?  
 4 A. I called her on her cell phone.  
 5 Q. Do you recall where it was that you had  
 6 obtained her cell phone information?  
 7 A. It was part of the personal information  
 8 that OPS obtained.  
 9 Q. And so what telephone did you call her  
 10 from?  
 11 A. Phone number at work, phone at work.  
 12 Q. One of the phones in IAD?  
 13 A. Yes, probably the phone from my office.  
 14 Q. Do you know whether or not on the other end  
 15 of those calls they come up blocked or --  
 16 A. It should come up City of Chicago.  
 17 Q. What did you tell her?  
 18 A. I said Abbate was placed under arrest, I'm  
 19 going to give you your court information, do you have  
 20 a pencil or a pen to write this down.  
 21 She said hold on a minute. She got back to  
 22 me. I said he's going to court at Grand and Central,  
 23 5555 West Grand, he's going to court on the 12th of  
 24 April 2007 and his court time is 13:30 hours which is

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1 1:30 in the afternoon.  
 2 I had her read it back to me. I said okay,  
 3 you got it, good luck, make sure you go to court.  
 4 Q. Did you tell her the branch info?  
 5 A. Branch 23-4. Yes, I'm sorry, I forgot  
 6 that, 5555 West Grand, Branch 23.  
 7 Q. And you've recorded in your supplementary  
 8 report that information on the bottom.  
 9 I take it that's the information that as  
 10 you just testified is what you relayed to her over  
 11 the phone; is that correct?  
 12 A. That's correct.  
 13 Q. Did you ever send any kind of a written  
 14 notification to her as follow-up?  
 15 A. I don't recall.  
 16 Q. After you had left her house in conclusion  
 17 of the interview that you and Detective Boyd had with  
 18 her did you leave her a copy of the complaint that  
 19 you had her sign?  
 20 A. No.  
 21 Q. I know you don't recall exactly what was on  
 22 the complaint form and that it may have been blank or  
 23 it may have just said a simple battery on it.  
 24 Do you recall whether when you got back to

1 IAD that afternoon that you filled out the remainder  
 2 of the complaint?  
 3 A. I did not fill it out.  
 4 Q. Do you know if anybody did or who did if  
 5 anybody?  
 6 A. It was eventually filled out when he was  
 7 arrested.  
 8 Q. So you're talking about on the day of the  
 9 14th the remainder of it was filled out?  
 10 A. When he was arrested, correct.  
 11 Q. And who filled it out?  
 12 A. I don't recall.  
 13 Q. Do you know what portions of it were filled  
 14 out at that point?  
 15 A. I'm assuming -- I shouldn't say assume.  
 16 MS. RUBENS: Don't guess.  
 17 MR. PROVENZALE: Yes, I don't want you to guess.  
 18 THE WITNESS: I don't know.  
 19 I don't recall what was filled out on the  
 20 form, no.  
 21 BY MR. PROVENZALE:  
 22 Q. In Field 90 on the supplementary report it  
 23 identifies extra copies required.  
 24 Do you see that?

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1 A. Yes.  
 2 Q. Who's identified in there?  
 3 A. Mine has a stamp on it.  
 4 I believe that's Area 5 homicide gang sex.  
 5 They would handle follow-ups to any batteries, and a  
 6 normal copy would be a copy would go to the district.  
 7 Q. Which district?  
 8 A. 25.  
 9 Whatever beat is up at the top, beat of  
 10 occurrence, would get a copy of this, and a copy  
 11 would also go to the detective area for the detective  
 12 whose name is at bottom to follow up on it.  
 13 Q. Mr. Abbate showed up at IAD, correct?  
 14 A. Correct.  
 15 Q. And you and Sergeant Bigg processed him; is  
 16 that correct?  
 17 A. Filled out the paperwork, correct.  
 18 Q. Did Sergeant Bigg have any contact with  
 19 Mr. Abbate during the course of processing and  
 20 filling out the paperwork?  
 21 MS. RUBENS: I object to foundation and  
 22 speculation.  
 23 THE WITNESS: I don't recall if he did or not.

21 (Pages 81 to 84)

<p style="text-align: right;">Page 85</p> <p>1 BY MR. PROVENZALE:    2 Q. Prior to that time did you know whether or    3 not Sergeant Bigg had any personal relationship with    4 Mr. Abbate or any of his family members?    5 A. I do not know any of that.    6 Q. At any time did you see Sergeant Bigg    7 interact with Mr. Abbate that evening when Mr. Abbate    8 had surrendered himself?    9 A. I did not see him interact with him, no.    10 Q. In any way he did not interact with him?    11 A. Until we processed or drove him to the 1st    12 District lockup.    13 Q. So that was --    14 A. After the processing or after the report    15 was completed.    16 Q. And taking him to the 1st District would    17 have just been for lockup purposes, correct?    18 A. Correct.    19 Q. You would have completed all of the    20 inventory -- property inventory, personal    21 information, booking procedures, when he surrendered    22 himself prior to taking him to lockup, correct?    23 A. An arrest report and a complaint would have    24 been prepared prior to taking him there.</p>	<p style="text-align: right;">Page 87</p> <p>1 Q. Did Lieutenant Naleway in that conversation    2 when he notified you of Mr. Abbate coming in give you    3 any information about Mr. Abbate -- the circumstances    4 of him leaving the rehab facility or how it was that    5 he learned that Mr. Abbate was going to surrender    6 himself?    7 A. I don't recall any of those facts, no.    8 Q. Where did you place Mr. Abbate when he    9 turned himself in at the IAD?    10 A. He was escorted to a large conference room    11 right on the floor there.    12 Q. Was he searched and cuffed?    13 A. No, he was not searched and cuffed; no.    14 Q. He was technically in custody at that    15 point, correct?    16 A. Correct.    17 Q. And during the course of time that you were    18 preparing the paperwork was he just alone in a room?    19 A. No.    20 Q. Who was present with him?    21 A. Sergeant Maraffino was present with him.    22 Q. And do you know whether or not he and    23 Sergeant Maraffino had any conversation?    24 A. No, I don't.</p>
<p style="text-align: right;">Page 86</p> <p>1 Q. And your testimony is during the entire    2 course of that booking or processing at IAD where    3 Mr. Abbate surrendered you handled the entirety of    4 that personally; is that correct?    5 A. I did the arrest report.    6 I don't recall if -- I don't recall if I    7 did the complaint or Detective Bigg did the    8 complaint. I don't recall, but I know I did the    9 arrest report. That supplementary report was done    10 after.    11 Q. As of March 14th prior to the time that    12 Lieutenant Naleway had told you that arrangements had    13 been made for Mr. Abbate to surrender at 6:00 had you    14 had any conversations with Lieutenant Naleway from    15 that point -- between that time and when he had told    16 you that Abbate was in a rehab facility in connection    17 with the investigation of Mr. Abbate for any purpose?    18 A. No.    19 Q. So after you had the conversation with    20 Mr. -- with Lieutenant Naleway about Mr. Abbate being    21 in a rehab facility the next thing you talked to    22 Lieutenant Naleway about regarding Mr. Abbate is that    23 he's going to surrender himself at 6:00?    24 A. That would be correct.</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Prior to the time that you placed him in    2 the room had you inquired whether he would be willing    3 to make any statement or be interviewed in connection    4 with his involvement?    5 A. I advised him of his rights, asked him if    6 he'd like to speak and he said no.    7 Q. Did you advise him of his rights after he    8 had turned himself in?    9 A. Yes, after he was placed into the    10 conference room; yes.    11 Q. Are you aware of whether -- Strike that.    12 Is it your understanding that at some point    13 in time prior to him turning himself in somebody had    14 made arrangements with Mr. Abbate for him to turn    15 himself in at a particular time?    16 A. I was informed by the lieutenant that    17 Abbate was turning himself in at 6:00. That's all I    18 knew.    19 Q. Did you ever become aware of any effort    20 that anyone made to take a statement or interview    21 Mr. Abbate in connection with his involvement in what    22 happened in the bar or anything else prior to the    23 time that he had surrendered himself at 6:00 or    24 approximately 6:00 on March 14th?</p>

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1 A. I don't know anything about that, no.	1 say anything.
2 Q. Well, did you ever inquire about that, has	2 Q. In other words he's invoking his right to
3 anybody taken a statement from this guy because we	3 remain silent?
4 wanted to do it earlier and it was --	4 A. Correct.
5 A. I never inquired about it, no.	5 Q. My question is more specific.
6 Q. Other than the conversation in ADS Kirby's	6 You did not record -- you have no
7 office that you had with her and Lieutenant Naleway	7 recollection of him ever saying I want to talk to an
8 where the speakerphone conversation occurred, from	8 attorney?
9 that point in time up to the point in time where you	9 A. He never said that, no.
10 received Mr. Abbate when he surrendered himself at	10 Q. And you're not aware of any further effort
11 IAD, did you have any other conversations with	11 by anyone's part to try to go back and to see if he
12 ADS Kirby in connection with this investigation of	12 would be willing to talk later on, correct?
13 Mr. Abbate --	13 A. I'm not aware of anybody trying to do that,
14 A. No.	14 no.
15 Q. -- and the charging?	15 Q. You never did that either?
16 A. No.	16 A. No.
17 Q. When you read him his rights did you read	17 Q. You and Sergeant Bigg drove him over to the
18 him his rights off a preprinted form or did you just	18 1st District?
19 do it from memory?	19 A. Correct.
20 A. Memory.	20 Q. Was there any conversation in the car on
21 Q. And did you provide him with a waiver form	21 the way?
22 to see if he would sign it or did you just assume he	22 A. Just between Bigg and I, just general
23 was going to invoke?	23 stuff, weather, what's going on.
24 A. I didn't present him a waiver form.	24 Q. No conversation with Mr. Abbate?
Page 90	Page 92
1 Q. Who else was present at the time that you	1 A. No.
2 read him his rights?	2 Q. Did he make any statements in the car?
3 A. I believe Sergeant Maraffino was sitting in	3 A. No.
4 the room with him.	4 Q. Did either you or Sergeant Bigg at any time
5 Q. So you were in the room where Mr. Abbate	5 while you were present make any comment to him like
6 was with Sergeant Maraffino when you read Mr. Abbate	6 don't worry, it's no big deal, anything like that?
7 his rights?	7 A. No, no.
8 A. I gave it to him from memory, yes.	8 Q. Did you have a case file where all the
9 Q. And he declined to waive them, correct?	9 materials that were related to this investigation in
10 A. That's correct. He didn't want to make a	10 IAD were kept that was like a central case file for
11 statement.	11 all the investigators to have access to or did you
12 Q. Did he invoke counsel at that time?	12 have your own personal one?
13 Did he say I've got an attorney, I'm not	13 A. I didn't keep any of it.
14 saying anything?	14 Q. What did you do with the signed complaint
15 A. I don't recall.	15 when you got back to the --
16 Q. And what you have in your report is just	16 A. I held on to it until he was arrested, but
17 that he declined to make any statement regarding this	17 I didn't keep any of the paperwork after he was
18 incident. I read that verbatim out of your report.	18 arrested.
19 You can see it there.	19 Q. All right. That's what I'm getting at.
20 Does that refresh your recollection or as	20 You've already mentioned that there was
21 you sit here today you just don't recall one way or	21 some OPS records that were made available to you
22 the other?	22 prior to going to talk to Karolina, right?
23 A. Me when I put declined to make any	23 A. Yes.
24 statement he's not going to say anything. He didn't	24 Q. Were those kept in like a central case file

23 (Pages 89 to 92)

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1 or were they just loose papers that were handed to  
2 you?

3 MS. RUBENS: Objection, foundation, calls for  
4 speculation.

5 THE WITNESS: I don't -- they were loose papers  
6 given to me.

7 I don't recall who kept them after it was  
8 all over. They were loose papers that were given to  
9 me.

10 BY MR. PROVENZALE:

11 Q. To your recollection was there -- well, let  
12 me ask you.

13 In general on cases when you are assigned  
14 to them and there's already some background  
15 information that was done by OPS prior to the time  
16 that you got involved -- let me back that whole  
17 question up and I'll ask you.

18 Have you ever had a case that you were  
19 involved in prior to this where IAD got involved in  
20 an investigation that OPS already had ongoing?

21 A. No.

22 Q. Have you since?

23 A. No.

24 Q. When Mr. Abbate turned himself in to IAD

1 Lieutenant Naleway to go see the video up until  
2 today?

3 A. I heard all that on the news, saw that in  
4 the news, read it in the paper. That's where I heard  
5 it from.

6 Q. And that would have been circumstances that  
7 you learned after Mr. Abbate had surrendered himself  
8 on the 14th, right?

9 A. That's correct.

10 Q. So as of the time that Mr. Abbate  
11 surrendered himself on March 14th or at that time did  
12 you contact Miss Obrycka to ask her whether or not  
13 she had any input that she wanted to give in terms of  
14 what kind of a bond Mr. Abbate should have?

15 A. I only contacted her after he was processed  
16 and gave her the court information.

17 Q. Do you know how it was that the bond was  
18 handled for Mr. Abbate after he surrendered and you  
19 finalized the complaint or whoever finalized the  
20 complaint then submitted it to get filed?

21 A. I don't understand the question.

22 Q. Well, there's no warrant.

23 A. Right.

24 Q. And so you've just got a complaint and

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1 had he driven himself or did somebody drive him?

2 MS. RUBENS: Foundation and speculation.

3 THE WITNESS: I believe his father drove him.

4 BY MR. PROVENZALE:

5 Q. And did his father walk him in?

6 MS. RUBENS: Same objections.

7 THE WITNESS: He showed up on the elevator on  
8 his own. I believe he was at the front door by  
9 himself.

10 BY MR. PROVENZALE:

11 Q. Now as of the time you had processed --  
12 well, that you had done the paperwork, taken  
13 Mr. Abbate in on his surrender on March 14th, had you  
14 by that time learned any information regarding  
15 Mr. -- any accusation against Mr. Abbate of having  
16 threatened the owner of the bar or Karolina, that in  
17 the days following the incident that occurred at the  
18 bar that Mr. Abbate was going to falsely arrest  
19 people or plant drugs on them if they didn't turn the  
20 video over to him?

21 A. I have no knowledge of that at all.

22 Q. Do you remember ever hearing that, those  
23 kinds of allegations against Mr. Abbate, from the  
24 time that you first got involved when you met with

1 somebody surrendering on a complaint.

2 A. On a misdemeanor charge the bond --

3 Q. Is \$1,000 normally, right?

4 A. I have nothing to do with bond. That's set  
5 by the district or the watch commander of a district.

6 Q. And my question to you specifically is did  
7 anybody ever contact you and say hey, there's certain  
8 things that you need to keep aware of when you set  
9 the bond in this case because there's more going on?

10 A. Nobody contacted me about that at all, no.

11 Q. And in terms of the bond as I understand it  
12 it was a recog bond on this or an I bond; is that  
13 correct?

14 MS. RUBENS: Foundation, speculation.

15 He just said he didn't know anything about  
16 bonds.

17 BY MR. PROVENZALE:

18 Q. Did you say that? I'm sorry, it went right  
19 past me.

20 A. I don't know what the bond was set.

21 Q. I take it then from your answer then that  
22 you never communicated to anybody that there needed  
23 to be special conditions on the bond for any  
24 particular reason?

24 (Pages 93 to 96)

<p style="text-align: right;">Page 97</p> <p>1       A. No, I never communicated that to anybody.      2       Q. Because you didn't know of any that needed      3       to be placed, correct?      4       A. That's correct.      5       Q. Do you know whether or not Lieutenant --      6       Strike that.      7       Do you know whether or not Lieutenant      8       Naleway had ever communicated with anyone that you've      9       learned since then that he tried to say hey, you      10      know, somebody needs to get the bond to something      11      other than what the standard bond is on a simple      12      battery?      13      A. I never learned of any of that.      14      Q. Let me ask you just in terms of -- you've      15      been a police officer for 25 years, and learning what      16      you learned on the news in the days following      17      Mr. Abbate having surrendered himself would you agree      18      that it would have been an appropriate bond condition      19      that a no contact order be entered for Mr. Abbate at      20      least to the extent that at the time that he      21      surrendered on the battery there were allegations      22      that he had threatened and intimidated witnesses?</p> <p>23      MS. RUBENS: Objection, relevance, incomplete      24      hypothetical, compound.</p>	<p style="text-align: right;">Page 99</p> <p>1       in the dark about. I knew nothing about that when he      2       was arrested for this.      3       Q. Okay. I take it from your comment then      4       that had you known about those things you would have      5       handled it differently, correct?      6       A. I mean any police officer I think had they      7       known about that would have handled it differently.      8       If you're aware of other circumstances as a      9       detective you would have made someone else aware of      10      those.      11      Q. You're aware that about a week after --      12      within a week after Mr. Abbate had surrendered      13      himself to you that a felony warrant complaint was      14      issued for Mr. Abbate for aggravated battery?      15      A. I wasn't aware of that. I heard it on the      16      news.      17      Q. You're aware of that today?      18      A. I'm aware of it today, yes.      19      Q. And you were aware of it shortly after it      20      happened because you saw it on the news?      21      A. Correct.      22      Q. Tell me what did you see on the news?      23      A. That he was arrested for aggravated battery      24      I believe.</p>
<p style="text-align: right;">Page 98</p> <p>1       You can answer.      2      BY MR. PROVENZALE:      3       Q. I'm just asking your opinion.      4       A. Someone said you're a former state's      5       attorney. You know as police officers we have      6       nothing to do with bond. We don't do anything with      7       it. We present what we have.      8       You got a simple battery. The desk      9       sergeant gets it. The watch commander makes the      10      ultimate decision. I didn't tell the watch commander      11      that he had any special conditions. I presented a      12      simple battery case report to the watch commander in      13      a simple battery arrest.      14      I don't make any decisions on -- for 25      15      years I never made that decision.      16      Q. I understand that, and I know you don't      17      have any involvement in that especially when --      18      A. You're asking me after the fact when I had      19      found out. Then after the fact when I had found out      20      there would have been a deeper investigation, but      21      this is all after my initial contact with him.      22      Q. You were in the dark about anything else      23      about --      24      A. All that stuff that you're asking me I was</p>	<p style="text-align: right;">Page 100</p> <p>1       Q. Did you see Sergeant Skala or Dion Boyd on      2       the news when you had seen the story about Mr. Abbate      3       being arrested?      4       A. No.      5       Q. Did you ever talk with Sergeant Skala or      6       Detective Boyd after you had seen on the news that      7       Mr. Abbate had been arrested about anything that      8       occurred during the course of time that they arrested      9       him?      10      A. No.      11      Q. Have you ever talked to them about it?      12      A. No.      13      Q. I'm only asking for your understanding. If      14      you don't know you don't know.      15      But do you know why Sergeant Skala would      16      have been involved in the investigation if yourself,      17      Sergeant Maraffino, and Sergeant Martin from general      18      investigations were involved already and Detective      19      Boyd from confidential investigations was involved?      20      A. I don't know.      21      Q. Other than -- Strike that.      22      Can you tell me how it was that Sergeant      23      Bigg was assigned to handle the intake and processing      24      of Mr. Abbate?</p>

25 (Pages 97 to 100)

<p style="text-align: right;">Page 101</p> <p>1 A. I don't know.      2 Q. You've already told me that Lieutenant      3 Naleway was the one who told you you're going to      4 handle it.      5 Do you know how it was that -- whether      6 Lieutenant Naleway was the one that told Sergeant      7 Bigg about it?      8 A. I don't know.      9 Q. Did you ever hear about a meeting occurring      10 over at OPS with Tom Bilyk and Lauren Freeman from      11 the state's attorney's office along with Dion Boyd?      12 A. No, I did not.      13 Q. Did you ever have a conversation with Dion      14 Boyd where he told you that he was at a meeting over      15 at OPS with --      16 A. No.      17 Q. Let me finish the question and then you can      18 say no.      19 A. Sorry.      20 Q. -- where he was over at OPS with Keith      21 Calloway, Tom Bilyk, and Lauren Freeman and other OPS      22 individuals where the tape was viewed again?      23 MS. RUBENS: Just in general I just want to      24 instruct you not to discuss anything you've learned</p>	<p style="text-align: right;">Page 103</p> <p>1 A. No cage.      2 Q. Was Mr. Abbate handcuffed in the back?      3 A. Yes, he was.      4 Q. Had you searched him prior to placing him      5 in the vehicle?      6 A. Yes, he was.      7 Q. Was he searched prior to the time that he      8 was placed in the room in IAD where he and Sergeant      9 Maraffino were sitting?      10 A. I can't answer that. I didn't search him.      11 I can't answer if he was searched by      12 anybody else.      13 Q. Okay. Did you do any kind of property      14 inventory of him prior to taking him over to the 1st      15 District where you'd check to see if he had a wallet      16 or whatever on him?      17 A. No.      18 Q. I take it then at some point he surrendered      19 himself and then he was delivered to you by whomever      20 received him at IAD; is that correct?      21 MS. RUBENS: Foundation, speculation.      22 BY MR. PROVENZALE:      23 Q. In other words when he showed up at IAD you      24 said he came up the elevator.</p>
<p style="text-align: right;">Page 102</p> <p>1 through counsel, myself, Mr. McGovern, or      2 Miss McInnis.      3 BY MR. PROVENZALE:      4 Q. My question is only about whether you      5 talked to Dion Boyd about it, whether he ever told      6 you I was at this meeting where we saw the video.      7 A. I've never spoken to Dion Boyd about that      8 after the fact.      9 Q. As of the time that you and Dion Boyd had      10 gone to go over to interview Karolina Obrycka were      11 you aware at that time of whether he had seen the      12 video?      13 A. I'm not aware if he saw the video or not.      14 Q. Nothing as you sit here today that you      15 recall that in your conversation with him indicated      16 that he had already seen the video?      17 A. At that time on that date that him and I      18 went together, no, I don't recall him seeing the      19 video. It was never brought up.      20 Q. When you drove Mr. Abbate from IAD over to      21 the 1st District, you and Sergeant Bigg, you were in      22 an unmarked squad?      23 A. My squad car, yes.      24 Q. Cage?</p>	<p style="text-align: right;">Page 104</p> <p>1 He was already within the secured perimeter      2 of IAD?      3 A. Of the building, right.      4 At that point he still had his star and ID      5 so he was allowed access up to the fifth floor. At      6 that point he was allowed entry onto the fifth floor.      7 It's a secured floor. He can't get in. You have to      8 open up the door to let him in.      9 Q. So somebody let him in?      10 A. I believe Lieutenant Naleway let him in.      11 We were all standing there waiting for him      12 to come up. They called and said he's on his way up.      13 Q. So do you know -- did you see anybody      14 search him at that point?      15 A. No.      16 Q. From that point until the time when you      17 searched and prior to placing him in the vehicle do      18 you know whether anybody had searched him?      19 A. No, I do not.      20 Q. Even a pat down?      21 A. I don't know.      22 MR. PROVENZALE: Can we take like five minutes?      23 I think I'm almost done.      24 (Short recess.)</p>

26 (Pages 101 to 104)

<p style="text-align: right;">Page 105</p> <p>1 BY MR. PROVENZALE:      2 Q. Just a quick couple follow-ups.      3 At some point in time you learned -- your      4 testimony is the first you learned that Mr. Abbate      5 had been arrested on aggravated battery after you had      6 already processed him and arrested him for the simple      7 battery was on the news; is that correct?      8 A. That's how I learned, yes.      9 Q. After you had learned it did you speak      10 with -- I mean did you follow up at IAD and say what      11 the heck happened, why did they charge him with      12 aggravated battery?      13 A. No, I did not.      14 Q. You didn't talk to anybody about that?      15 A. Some things are greater than me.      16 Q. That's the God honest truth. I know what      17 you're talking about.      18 So in any event you never had -- did you      19 hear anybody talking about it at IAD?      20 A. No.      21 Q. Not Lieutenant Naleway?      22 A. Not to me about it personally, no.      23 I didn't hear anybody talk about it.      24 MS. RUBENS: And I'll just object to time frame.</p>	<p style="text-align: right;">Page 107</p> <p>1 state's attorney charged someone with a felony that      2 I've never seen in 14 years as a detective. That's      3 my personal opinion.      4 Q. What I'm talking about is of those 12,500      5 that you actually heard or spoke with about.      6 A. I mean I can list a whole 50 names here.      7 Everybody I know that's a policeman said that.      8 Q. Did you ever talk with Lieutenant Calloway      9 about --      10 A. No.      11 Q. -- about the state's attorney's decision?      12 A. No.      13 Q. Did you ever talk with Lieutenant Naleway?      14 A. No.      15 Q. Did you ever talk with Deb Kirby?      16 A. No.      17 Q. Did you ever talk with any state's      18 attorneys?      19 A. No.      20 Q. Dave Navarro?      21 A. No.      22 Q. Lauren Freeman?      23 A. No.      24 Q. Tom Bilyk.</p>
<p style="text-align: right;">Page 106</p> <p>1 BY MR. PROVENZALE:      2 Q. Well, I'm talking about at any time from      3 when it happened up until today other than any      4 conversations you had where you were present with      5 your lawyers and anybody else from IAD.      6 A. I mean generally he's being charged and      7 arrested, but that's -- every policeman talks about      8 that policeman has been charged with a felony now,      9 but just generally he was arrested and charged with a      10 felony.      11 Q. I'm talking about the about-face that it      12 sounds like from your recollection that the state's      13 attorney pulled on being okay with a misdemeanor at      14 first and then going back and charging as a felony.      15 Did anybody talk about that?      16 MS. RUBENS: I object to the characterization of      17 your question, but you can answer.      18 THE WITNESS: Did anybody talk about the state's      19 attorney's about-face in charging that as a felony,      20 yes, a lot of people talked about that; yes.      21 BY MR. PROVENZALE:      22 Q. Who do you remember talking about that?      23 A. Every person in the police department.      24 12,500 policemen talked about how the</p>	<p style="text-align: right;">Page 108</p> <p>1 A. No.      2 Q. I'm going to guess that you have an opinion      3 about it.      4 Tell me how did you receive it when you      5 heard about it happening?      6 A. My opinion doesn't matter here.      7 Q. It matters to me. I want to know what your      8 opinion is.      9 A. If you turn that microphone off I'll tell      10 you my opinion.      11 MS. RUBENS: Specifically an opinion about what?      12 BY MR. PROVENZALE:      13 Q. What is your opinion about the state's      14 attorney's decision to charge an aggravated battery      15 given what you've testified to today about the      16 circumstances that occurred leading up to you having      17 a complaint signed for --      18 A. Circumstances that were presented to the      19 state's attorney's office as they had been for the      20 last 24 years I've been on the police department that      21 is a simple battery.      22 I've never seen anybody charged with that      23 charge before in my 24 years on the police      24 department. That's my opinion.</p>

<p style="text-align: right;">Page 109</p> <p>1 Q. Do you know of anybody in the Chicago 2 Police Department who disagreed -- who disagrees with 3 that opinion you've just expressed who thought that 4 it should have been charged as a felony just based 5 upon what was on the videotape?</p> <p>6 A. Me personally I don't know anybody, no.</p> <p>7 Q. Have you ever spoken with Keith Calloway in 8 any way regarding his involvement in this case --</p> <p>9 A. No.</p> <p>10 Q. -- outside of any conversation you had with 11 him in the presence of your lawyers?</p> <p>12 A. No.</p> <p>13 Q. Have you heard from anyone other than your 14 attorneys as to what his opinion is about whether or 15 not Mr. Abbate should have been charged with a felony 16 at the --</p> <p>17 A. It got too long. You lost me.</p> <p>18 Q. Me too. Now I can't even repeat the 19 question. Let me remember what I was asking. 20 Have you learned from anyone other than 21 Keith Calloway --</p> <p>22 MS. RUBENS: And other than your attorneys. 23 BY MR. PROVENZALE: 24 Q. -- and other than your attorneys about what</p>	<p style="text-align: right;">Page 111</p> <p>1 legal conclusion.</p> <p>2 BY MR. PROVENZALE:</p> <p>3 Q. Well, you've raised it. So I would like to 4 just explore that.</p> <p>5 A. The rules of privacy.</p> <p>6 You're not allowed to learn any information 7 about any person who's in a hospital. They won't 8 give you that information.</p> <p>9 Q. Even where they're at?</p> <p>10 A. That's correct.</p> <p>11 Q. Even a person who's got a sworn complaint 12 out against them?</p> <p>13 A. That's correct.</p> <p>14 Q. In your 25 years as a police officer you 15 never interviewed a suspect when he was in the 16 hospital being treated?</p> <p>17 You never went in to take a statement?</p> <p>18 A. Before the HIPAA rule was enacted, yes, 19 sir, I did.</p> <p>20 Q. Well, how many times did you do that?</p> <p>21 A. Hundreds.</p> <p>22 Q. Your understanding is that since whatever 23 HIPAA rules you're referring to were enacted that you 24 can't even go into a hospital and interview a suspect</p>
<p style="text-align: right;">Page 110</p> <p>1 Keith Calloway's opinion is about whether or not Mr. 2 Abbate should have been charged with an aggravated 3 battery just based upon what was on the videotape?</p> <p>4 A. No.</p> <p>5 Q. I just wanted to clarify one thing. 6 After you had spoke with Lieutenant Naleway 7 when he told you that Mr. Abbate was in a rehab 8 facility, you did not follow up to try to locate 9 Mr. Abbate at any time after that and up until the 10 time when Lieutenant Naleway told you on the 14th 11 that Mr. Abbate was going to surrender; is that 12 correct?</p> <p>13 A. I'm familiar with HIPAA rules, and that's 14 correct, I didn't follow up with it.</p> <p>15 Q. My question is aside from what your 16 familiar with, you did not make any follow-up to 17 locate where he was at?</p> <p>18 A. That's correct.</p> <p>19 MS. RUBENS: Asked and answered.</p> <p>20 THE WITNESS: That's correct.</p> <p>21 BY MR. PROVENZALE: 22 Q. Tell me what HIPAA rules you're familiar 23 with that would prevent you from locating Mr. Abbate.</p> <p>24 MS. RUBENS: Objection, relevance, calls for a</p>	<p style="text-align: right;">Page 112</p> <p>1 to take a statement from them or to arrest them?</p> <p>2 MS. RUBENS: Again I object, incomplete 3 hypothetical, calling for a legal conclusion.</p> <p>4 MR. PROVENZALE: I'm just asking his 5 understanding. That's all.</p> <p>6 THE WITNESS: My understanding is you have to go 7 to the hospital administration who then has to go 8 upstairs to get his permission to get you to come up 9 and interview him.</p> <p>10 You just can't walk in and interview people 11 like you used to years ago.</p> <p>12 BY MR. PROVENZALE: 13 Q. That's your understanding of it?</p> <p>14 A. That's my understanding of it.</p> <p>15 Q. Do you know is there an actual department 16 policy at the Chicago Police Department that 17 prohibits officers from interviewing suspects when 18 they're in the hospital being treated that requires 19 the officer to get the permission of the hospital to 20 question the suspect first?</p> <p>21 MS. RUBENS: Objection, vague, compound, 22 incomplete hypothetical, and foundation.</p> <p>23 THE WITNESS: I don't know if there's such an 24 order that exists.</p>

<p style="text-align: right;">Page 113</p> <p>1 BY MR. PROVENZALE:      2 Q. I take it then when Lieutenant Naleway told      3 you that Mr. Abbate was in a rehab facility you      4 understood Lieutenant Naleway to be telling you      5 there's nothing we can do right now, we're going to      6 have to wait until he gets out; is that correct?      7 A. That was my assumption, yes, when he told      8 me that.      9 MR. PROVENZALE: That's it.      10 Thanks very much.      11 MS. RUBENS: Mike?      12 MR. MALATESTA: Do you have anything?      13 MS. RUBENS: I just wanted to clarify one thing.      14 EXAMINATION      15 BY MS. RUBENS:      16 Q. When you and Sergeant Bigg were      17 transporting Anthony Abbate from 35th and Michigan to      18 the 1st District was anyone else in the car?      19 A. Sergeant or Detective Randy Bacon was in      20 the car with us also.      21 Q. Okay. Where was he seated?      22 A. He was sitting in the back seat next to      23 Abbate.      24 Q. And why did Detective Bacon accompany you</p>	<p style="text-align: right;">Page 115</p> <p>1 charged?      2 A. That's correct.      3 MR. MALATESTA: That's all the questions.      4 MR. PROVENZALE: I just need to follow up on      5 that real quick. I have to have the last word.      6 Otherwise then it doesn't seem like I'm winning, but      7 let me ask the question anyway.      8 FURTHER EXAMINATION      9 BY MR. PROVENZALE:      10 Q. Mr. Malatesta just asked you questions      11 about have you ever handled a case where a felony was      12 charged for someone hitting someone with their hands.      13 I'm going to ask you more specifically in a case      14 similar to the one that we've got here.      15 Have you ever been involved in      16 investigating a case where a police officer was the      17 one who was alleged to have been striking another      18 person with their hands and then had that be charged      19 in any way as a crime other than this case here?      20 A. No, I never investigated that.      21 Q. And are you aware of any circumstance like      22 that ever coming up previously even though you're not      23 aware of it but you heard about it?      24 A. Not that I can recall, no.</p>
<p style="text-align: right;">Page 114</p> <p>1 and Bigg and Abbate on that ride?      2 A. He is a detective and if any supplementary      3 reports had to be prepared he would have prepared      4 them.      5 MS. RUBENS: Okay. That's all I have.      6 EXAMINATION      7 BY MR. MALATESTA:      8 Q. Just real quick so I can clarify your      9 opinions on this.      10 In your 24 years experience as a police      11 officer you've investigated cases of battery before,      12 correct?      13 A. That's correct.      14 Q. Batteries involving offenders hitting      15 victims with their fists, correct?      16 A. Correct.      17 Q. And in that 24 years of experience have you      18 ever seen or experienced an offender being charged      19 with a felony after striking a victim with just their      20 fist?      21 A. No.      22 Q. Is that what you meant in terms of your      23 opinions regarding felony charges in this particular      24 case versus misdemeanor charges and the way it was</p>	<p style="text-align: right;">Page 116</p> <p>1 MR. PROVENZALE: Okay. That's it.      2 MS. RUBENS: Do you have anything?      3 FURTHER EXAMINATION      4 BY MR. MALATESTA:      5 Q. Would a police officer be charged any      6 differently than a regular citizen for a particular      7 battery?      8 A. I mean I'll wait and defer that to when the      9 radio is off.      10 I don't know how you want me to answer      11 that. I mean if a police officer and his wife get      12 involved in a domestic and he hits her, would he be      13 charged with domestic battery, yes, the charge would      14 be domestic battery. It could be a felony. It could      15 be a misdemeanor.      16 Q. Let me ask you this.      17 Officers as opposed to regular citizens      18 we'll say are not charged any differently when they      19 commit a certain offense, correct?      20 A. That's correct.      21 MR. MALATESTA: That's all the questions I have.      22 MS. RUBENS: I think we'll waive signature.      23      24 AND FURTHER DEPONENT SAITH NOT AT 3:15 P.M.</p>

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1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF C O O K )  
4 I, SELENA FIORE, a notary public within and  
5 for the County of Cook and State of Illinois, do  
6 hereby certify that heretofore, to-wit on the 13th  
7 day of August, 2008, personally appeared before me,  
8 at 219 South Dearborn Street, 12th Floor, Chicago,  
9 Illinois, JOSEPH STEHLIK, a witness in a certain  
10 cause now pending and undetermined in the United  
11 States District Court for the Northern District of  
12 Illinois, Eastern Division, Illinois, wherein  
13 KAROLINA OBRYCKA, MARTIN KOLODZIEJ, and EVA CEPIASZUK  
14 are the Plaintiffs, and CITY OF CHICAGO, a Municipal  
15 Corporation, ANTHONY ABBATE, JR., GARY ORTIZ, PATTI  
CHIRIBOGA, and JOHN DOE are the Defendants.

16 I further certify that the said witness was  
17 first duly sworn to testify the truth, the whole  
18 truth and nothing but the truth in the cause  
19 aforesaid; that the testimony then given by said  
20 witness was reported stenographically by me in the  
21 presence of the said witness, and afterwards reduced  
22 to typewriting by Computer-Aided Transcription, and  
23 the foregoing is a true and correct transcript of the  
24 testimony so given by said witness as aforesaid.

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1 I further certify that the signature to the  
2 foregoing deposition was waived by counsel for the  
3 respective parties.

4 I further certify that the taking of this  
5 deposition was pursuant to Notice, and that there  
6 were present at the deposition the attorneys  
7 hereinbefore mentioned.

8 I further certify that I am not counsel for  
9 nor in any way related to the parties to this suit,  
10 nor am I in any way interested in the outcome  
11 thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set  
13 my hand and affixed my notarial seal this \_\_\_\_ day of  
14 \_\_\_\_\_, 2008.

15  
16  
17 NOTARY PUBLIC, COOK COUNTY, ILLINOIS

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19  
20  
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22  
23  
24

30 (Pages 117 to 118)

MARIE WALSH FITZGERALD, C.S.R.  
(630) 241-4511